

# AZERBAIJAN

## CRACKDOWN ON HUMAN RIGHTS DEFENDERS INTENSIFIES AS BAKU GAMES APPROACH

International Fact-Finding Mission Report



April 2015

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Cover photo: Azerbaijan's President Ilham Aliyev inspects the Baku Olympic Stadium on March 18, 2015. The first «European Games» will be held in Baku in June 2015. © Anadolu Agency

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# EXECUTIVE SUMMARY

## 1. Context of the mission

In the Summer 2014 – as Azerbaijan was chairing the Committee of Ministers of the Council of Europe – authorities cracked down severely on key representatives of the civil society, NGOs, human rights defenders and journalists and their lawyers. Prominent and recognised human rights defenders and journalists were detained, such as Mr. and Ms. **Yunus**, Mr. **Intigam Aliyev** and several others. Working conditions for NGOs and human rights defenders have significantly deteriorated.

This crackdown must be analysed in the context of the upcoming parliamentary elections scheduled for 2015, and the tense situation prevailing in the Caucasus Region. In addition, in June 2015, Baku will be hosting the first ever European Games, an opportunity for Azerbaijan to look after its image on the international scene and appear as a modern European country. National Olympic Committees will have to take this seriously deteriorated human rights environment in Azerbaijan into account while the planned date for the games approaches.

Unfortunately, international attention on this dramatic situation remains insufficient.

## 2. Objective and schedule of the mission

Following the wave of arbitrary detentions, "The Observatory for the Protection of Human Rights Defenders" (The Observatory) decided to send a mission to Baku from January 4 to 8, 2015, in order to show solidarity with civil society in Azerbaijan, to better assess their situation and working environment since the summer 2014 crackdown by Azeri authorities, to try to have a dialogue with the authorities of Azerbaijan on those issues and to visit the imprisoned human rights defenders and journalists.

The mission was composed of the following delegates:

**Souhayr Belhassen**, FIDH Honorary President  
**Tolekan Ismailova**, FIDH Vice President  
**Hugo Gabbero**, Observatory Programme Officer at FIDH  
**Peter Zangl**, OMCT Representative to the European Union,

During this mission, the delegation met with lawyers and former lawyers of human rights defenders, with journalists, with diplomats, with NGOs and with the Deputy Commissioner for Human Rights (Ombudsman) jointly with the Head of "The National Preventive Mechanism" (NPM).

Requests for meetings were also sent to other institutions, including the Ministry of Justice (MoJ), which were left unanswered and on the very last day of the mission, the Delegation was told orally to file their request with the Ministry of Foreign Affairs. The corresponding written request also failed to get a positive reply

Equally, the written request made in December 2014 to visit the following detained human rights defenders:

- **Mr. Anar Mammadli**
- **Mr. Bashir Suleymanli**
- **Mr. Rasul Jafarov**
- **Mr. Intigam Aliyev**
- **Ms. Leyla Yunus**
- **Mr. Arif Yunus**
- **Ms. Khadija Ismayilova**

and which was reiterated several times, remained unanswered.

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### 3. Outcome of the mission

Findings during the mission largely confirmed the severity of the crackdown against human rights defenders and civil society in general. The following four aspects were particularly documented during the mission:

#### **Judicial harassment and arbitrary detention of HRD and journalists**

Under the law in force, pre-trial detention can be extended up to 18 months, and is used by the authorities as a pretext to deny visits as long as the investigation is ongoing.

Many human rights defenders in arbitrary detention face worrying physical and psychological condition, especially human rights lawyer Mr. **Intigam Aliyev**, Head of the Legal Education Society, Ms. **Leyla Yunus**, the Director of the Institute for Peace and Democracy (IPD) and member of the OMCT General Assembly, her husband Mr. **Arif Yunusov**, Head of the Conflictology Department at IPD and Mr. **Anar Mammadli**, Chairman of the Election Monitoring and Democracy Studies Centre (EMDSC).

In January 2015, the trials of Intigam Aliyev and **Rasul Jafarov**, Head of the Human Rights Club, who was planning a campaign called "Sports for Rights" prior to the European Games scheduled for June 2015 in the Azeri capital, opened. On April 16, 2014, the Baku Grave Crimes Court sentenced him to 6.5 years in jail.

Messrs. Anar Mammadli and **Hilal Mammadov**, Talysh ethnic minority rights activist and chief editor of the newspaper *Tolishi-Sado* (The Voice of the *Talysh*), are serving long prison sentences: five and a half, and five years respectively.

In the absence of substantiated evidence, and in the light of the misuse of national legislation to criminalise activities protected under international human rights law, all human rights defenders presently in detention should be released in compliance with the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Declaration on Human Rights Defenders.

This report provides individual profiles for each of the detained defenders, criminal charges pending against them, places of detention, as well as an assessment of their detention conditions and health status. The information contained in those profiles, and more generally in this report, confirm that their detentions are totally disproportionate and totally unsubstantiated, and that detention conditions amount, for some of the detainees, to inhuman and degrading treatment.

#### **A dramatically reduced space for civil society and NGOs, with restrictive new laws on NGOs and Grants**

Since 2009, the Government has tried to limit the activities of NGOs and foreign supports in Azerbaijan. In 2011, a new decree made it compulsory for the offices of international NGOs to conclude bilateral agreements with the Government, resulting in the suspension of the offices of the National Democratic Institute (NDI - United States) and of the Human Rights House Foundation (HRHF - Norway), which failed to get an appropriate response from the Government. In Spring 2013, the U.S. funded NDI was accused in pro-governmental media of taking part in a so-called "Facebook revolution"<sup>1</sup>. The authorities launched a criminal investigation against two election-monitoring NGOs soon after the presidential election in October 2013.

Since then, a set of amendments to the legislation on NGOs and Grants has been adopted in order to muzzle the Azeri civil society and to increase the discriminatory power of the authorities, who can decide on a one-by-one basis which NGOs would be registered and allowed to receive funding. Under this new regulatory framework, NGOs are compelled to register with the government and to register their funds with the Ministry of Justice prior to receiving funding.

Unregistered NGOs cannot have a bank account opened on their behalf and without such a bank account, they can neither receive domestic nor foreign funding. But even those having a

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1. See RFE/RL, *Baku Leans On NGOs As Presidential Election Nears*, March 21, 2013, available at: <http://www.rferl.org/content/azerbaijan-presidential-election-24934952.html>

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bank account are required to request an authorisation to receive each individual grant.

Those who do not obtain the authorisation have no other choice but to break the law to receive funding, in particular from abroad. The use of unregistered funds is deemed today to be an administrative offence and the judiciary considers the funds to be a source of taxable personal income. Charges on tax evasion against Rasul Jafarov and Intigam Aliyev stem precisely from this.

On November 19, 2014 President Ilham Aliyev signed into law new amendments to the legislation on NGOs and Grants, thus further shrinking the capacity of NGOs to operate independently, by posing additional obstacles to their ability to receive funds, and to implement service contracts.

To sum up, the repressive legislation on NGOs, which blatantly violates international standards related to the right to freedom of association, coupled with the systematic refusal of the authorities to register NGOs and to authorise the use of grants, have rendered the activities of human rights defenders illegal according to national law.

In December 2014, the European Commission for Democracy through Law (Venice Commission)<sup>2</sup> issued a strong opinion on this legislation, and recommended that the existing regulations be amended in order to simplify the procedure, to make it transparent, to limit the grounds for refusing the registration and to authorise foreign funding unless in the case of clear and specific reasons.

While this repressive legislation is in place, it is worth noting that a joint "Working group on Human Rights" was re-established in October 2014 under the impetus of the Secretary General of the Council of Europe. This Working Group is a national body composed of representatives of the authorities and of civil society, but only registered NGOs can participate. In addition, six million Azerbaijani manat (around 5.4 million Euro as of March 18, 2015) have been made available in the State Fund to Support NGOs activities for 2015.

### **The situation of lawyers and former lawyers representing human rights defenders**

While Azerbaijan has only a limited number of human rights lawyers, they are facing harassment and are being prevented from defending their clients on fallacious grounds, ranging from calling them to testify as witnesses (as is the case for three lawyers defending Mr. Intigam Aliyev) to harassing them in different ways. As an example, Ms. Leyla Yunus was deprived from one of her lawyers, Mr. Javad Javadov, following his criticism of the judicial harassment faced by his client. In the same vein, another lawyer of Ms. Yunus, Mr. Alaif Hasanov, could be sentenced to community work following a complaint by the cellmate of Ms. Yunus. Finally, Mr. Bagirov another of her lawyers, has seen his license suspended and could be disbarred on the basis of a complaint filed by the Azerbaijan Bar Association before civil courts. In addition, a few weeks after the Observatory mission, on March 12, 2015, Mr. Yalchin Imanov, a lawyer representing Ms. Khadija Ismayilova, was disqualified after two criminal cases against his client were merged. Mr. Imanov was cited as a witness in one of the two criminal cases, while acting as her legal representative in the other.

### **The situation of journalists and the media**

The media sector in Azerbaijan is largely controlled by members of the Executive. By way of illustration, in July 2013, President Ilham Aliyev inaugurated a building in Baku, in which 155 flats had been offered for free to journalists in a clear attempt to further control the press<sup>3</sup>. Meanwhile, the few independent journalists who remain active are clearly isolated and the financial and material conditions for the continuation of their crucial work are strongly deteriorating. The arrest of *Zerkalo* columnist **Rauf Mirqadirov** after his extradition from Turkey in April 2014, the arbitrary detention of investigation journalist **Khadija Ismayilova** and of the editor-in-chief of *Tolishi-Sado* newspaper **Hilal Mammadov**, as well as the raid on and closure of the offices of *Radio Free Europe-Radio Liberty* (RFE-RL) in Baku in December 2014 are prominent illustrations of the ongoing crackdown on independent journalists.

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2. See Opinion 787/2014 of the Venice Commission, adopted on December 15, 2014, available at: [http://www.coe.int/t/ngo/Source/Venice\\_Comm\\_opinion\\_787\\_2014\\_amendments\\_NGO\\_law\\_Az\\_en.pdf](http://www.coe.int/t/ngo/Source/Venice_Comm_opinion_787_2014_amendments_NGO_law_Az_en.pdf).

3. See RFE-RL, *Baku Doles Out Apartments To Journalists*, available on: <http://www.rferl.org/content/azerbaijan-apartments-for-journalists-aliyev/25055301.html>

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In addition, the pressure exercised on independent bloggers is constant. Several bloggers who have posted comments criticising the regime on the social media have been arrested under trumped up charges, including the alleged possession of drugs. Furthermore, defamation on the Internet is now criminalised, and one of the first victims of that legislation was Ms. Khadija Ismayilova, for a publication on her Facebook page<sup>4</sup>.

#### **4. Recommendations**

On the basis of their findings, the mission delegates have made specific recommendations to urge national authorities, the United Nations, the European Union, the Council of Europe, and other relevant actors, to improve the protection and the working environment of human rights defenders in Azerbaijan. The set of recommendations is provided at the end of this report.

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4. A case was opened against Ms. Ismailova on October 3, 2014, in the framework of a complaint lodged by a political activist, Mr. Elman Türkoglu, who accused her of defamation.



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## INTRODUCTION

In 2014, whilst the country was holding the Presidency of the Council of Europe Committee of Ministers, civil society organisations, NGOs, human rights defenders and journalists in Azerbaijan experienced a severe wave of repression. In July and August 2014, the names of human rights defenders **Leyla Yunus**, **Arif Yunusov**, **Intigam Aliyev** and **Rasul Jafarov**, joined later by **Khadija Ismayilova** were added to the list of prisoners of conscience.

In the meantime, the bank accounts of several independent NGOs receiving foreign funding were frozen, under the guise of a set of amendments to the laws on NGOs and Grants, adopted by the Parliament of Azerbaijan, aiming at restricting the work of NGOs. The new NGO legislation now provides the authorities with additional discretionary powers for temporary suspension and permanent banning of national and foreign NGOs, and introduces additional administrative requirements and controls. Unregistered NGOs cannot be considered recipients of grants any more. While working under non-registered grants is an administrative offence, courts now tend to consider such funds as personal income, in an attempt to prosecute their recipients for tax evasion. In addition, the bank accounts of some NGOs and their representatives were reportedly frozen on the basis of the Criminal Code, upon the request of the General Prosecutor's Office.

Moreover, lawyers of prosecuted defenders are facing immense difficulties in defending their clients. Methods used by authorities to dismiss them from their clients' cases are numerous: some have been cited as witnesses to the hearing of their clients, others like Kahlid Bagirov have been the target of malicious complaints, exposing them to disbarment charges.

Furthermore, the worrying situation of journalists raises the concern of an even more important repression in the run-up to the first European Games, which will be held in Baku in June 2015.

It is within this context that from January 4 to 8, 2014, the Observatory carried out a mission in Azerbaijan composed of Souhayr Belhassen, FIDH Honorary President, Tolekan Ismailova, FIDH Vice President, Peter Zangl, representative of the Brussels office of OMCT, and Hugo Gabbero, Observatory Programme Officer. The objectives of this mission were three-fold: meet with civil society representatives, including journalists and lawyers, meet with the authorities, and visit defenders in prison.

However, a requested meeting with the authorities of the Ministry of Justice could not be obtained, and access to detention centres such as Kurdakhani to visit the imprisoned defenders proved to be impossible. This lack of cooperation by the authorities contrasted sharply with a previous mission FIDH had carried out ahead of the presidential elections in 2013, where the mission delegates had been allowed to visit remand prisoners in the same Kurdakhani detention facility.

The Observatory delegates were nonetheless able to meet with the office of the ombudsman, which carefully explained the country's development policy towards democracy and human rights, as well as the different activities implemented within the "National Action Plan", adopted by the Parliament, especially regarding its willingness to cooperate with civil society, its capacity to visit prisons, and to monitor detainees situations through the "national preventive mechanism", set up since the ratification of the Optional Protocol to the United Nations Convention against Torture (OPCAT).

The Observatory carried out its mission at a defining moment for Azeri civil society, which is now facing two alternatives: repression or self-censorship under the cover of a dialogue with government officials within a "Joint Working Group on Human Rights"<sup>5</sup>, a national body resurrected on October 22, 2014 under the impetus of the Council of Europe Secretary General, Thorbjørn Jagland. This working group has been criticised by part of civil society<sup>6</sup> as a tool serving the government to divide

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5. After reportedly being inactive for a while, the group resumed its meetings in spring 2015.

6. See The Guardian, Thorbjørn Jagland, Secretary General of the Council of Europe, *Azerbaijan's human rights are on a knife edge. The UK must not walk away*, November 3, 2014, available at : <http://www.theguardian.com/commentisfree/2014/nov/03/azerbaijan-human-rights-uk-tory-echr>

.....  
the non-governmental sector<sup>7</sup>. Only registered NGOs can participate in this Working Group. In addition, six million Azerbaijani manat (approximately 5.4 million Euro<sup>8</sup>) are available in the State Fund to Support NGOs activities for 2015, an amount 50% higher than in 2014<sup>9</sup>. In the meantime, NGOs using foreign funding are exposed to judicial harassment. Therefore, numerous human rights defenders are facing a genuine dilemma: join the working group at the risk of undermining their capacity to denounce human rights violations freely, or boycott the initiative, at the risk of being criminalised on fallacious grounds.

The present report aims at analysing the regional geopolitical situation as well as the national political context in which human rights defenders currently operate, understanding the reasons of the lead blanket that has fallen these past months on civil society, presenting the profiles of defenders in detention, and formulating concrete recommendations to the Azeri authorities, the United Nations, the Council of Europe, the European Union and its member States, as well as other relevant actors.

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7. See EURASIANET, Azerbaijan: Debating GONGO vs. NGO, November 4, 2014, available at: <http://www.eurasianet.org/node/70761>

8. The exchange rate was calculated as of March 18, 2015.

9. In 2007, the Azerbaijan government created the Council for State Support to NGOs, controlled by the Office of the President of the Republic, which aims to grant funding to national and foreign NGOs, and to "*facilitate cooperation between NGOs and the government*".

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# I - CONTEXT OF REPRESSION

## **I - 1 - National political context: analysis of a benumbed political situation orchestrated by the Azerbaijan presidency**

In 2003, Ilham Aliyev succeeded his father Heydar Aliyev, to the presidency of the Republic of Azerbaijan against a backdrop of electoral fraud<sup>10</sup>. If some observers initially saw Ilham Aliyev as a potential reformist, he steadily and rapidly built an authoritarian regime.

Parliamentary elections held in November 2005, once again against a backdrop of irregularities, led to a severe repression of the opposition<sup>11</sup>. Meanwhile, in April 2006, shortly after the inauguration of the Baku–Tbilisi–Ceyhan oil pipeline and the Baku–Tbilisi–Erzurum gas pipeline, Ilham Aliyev received his first official invitation to Washington, thereby intensifying the country's economic cooperation with the United States, at the expense of issues related to public freedoms.

In October 2008, Ilham Aliyev won the presidential election with 89% of the votes, enabling him to remain in power for another five years. The elections were boycotted by the major opposition parties<sup>12</sup>.

Following his re-election, Ilham Aliyev suppressed the two consecutive presidential term limit. In a context of muzzled independent media and weakened opposition, President Aliyev has strengthened the cult of personality in all aspects of public life.

Simultaneously, Ramiz Mekhtiev, the current Chief of Presidential Administration, developed the political doctrine of "the Azeri model", defining his own governance model as a purported "responsible democracy". Several officials and pro-government politicians have not hesitated to claim that "democracy is a new concept for the country", thereby justifying autocracy as a buffer against "chaos".

New presidential elections were held in October 2013, putting once more the President back in office with 84.5% of the votes in his favour. Ilham Aliyev, who has been holding power for over ten years now, will remain in office until 2018. Those elections were criticised by the Organisation for Security and Cooperation in Europe (OSCE)<sup>13</sup> as well as by the EU High Representative for Foreign Affairs and Security Policy Catherine Ashton, and by the EU Commissioner in charge of Enlargement and Neighbourhood policy Stefan Füle, who noted "significant problems (...) throughout all stages of election day processes", as well as "serious shortcomings - including limitations on the freedoms of expression, assembly and association that did not guarantee a level playing field for candidates"<sup>14</sup>. On October 12, 2013, about 4,000 people protested against the elections outcome. Ten of them were arrested and others were violently beaten.

The next Parliamentary elections are scheduled for November 2015.

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10. See Office for Democratic Institutions and Human Rights OSCE/ODIHR Election Observation Mission Report, REPUBLIC OF AZERBAIJAN PRESIDENTIAL ELECTION, October 15, 2003, p. 29. 29.

11. See *International Crisis Group, Azerbaijan's 2005 Elections: Lost Opportunity*, November 21, 2005, available at: <http://www.crisisgroup.org/en/regions/europe/south-caucasus/azerbaijan/b040-azerbaijans-2005-elections-lost-opportunity.aspx>

12. See *European Parliament, Electoral Surveillance Mission Report*, October 13-16, 2008, available at: <http://www.crisisgroup.org/en/regions/europe/south-caucasus/azerbaijan/b040-azerbaijans-2005-elections-lost-opportunity.aspx>

13. See OSCE press release, Azerbaijan, Presidential Election, 9 October 2013: Statement of Preliminary Findings and Conclusions, October 9, 2013, available at: <http://www.osce.org/odihr/elections/106901>

14. See joint press release, Statement by the Spokespersons of EU High Representative Catherine Ashton and Commissioner Štefan Füle on Presidential elections in Azerbaijan, available at: [http://europa.eu/rapid/press-release\\_MEMO-13-879\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-879_en.htm). In a public statement, which surprised numbers of observers, delegations of the Parliamentary Assembly of the Council of Europe and of the European Parliament have concluded that those elections took place in fairly good conditions. See <http://www.assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=4699&lang=2&cat=31>.

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## I - 2 - The fear of protest movements: Arab springs, events in Crimea, demonstrations in Turkey, conflict in the Nagorno-Karabakh region

Although repression escalated in 2014, dozens of activists had already been arrested in early 2011 during pro-democracy protests in Azerbaijan<sup>15</sup>, in a context where authorities were fearing the outbreak of a revolution similar to the Arab springs<sup>16</sup>. This wave of repression towards civil society was maintained in 2012, year of the Eurovision song contest, upstream of which many defenders had been denouncing human rights violations in the country. Repression continued in March and April 2013, year of the presidential election, when authorities arrested Mr. Mammad Azizov, Mr. Bakhtiyar Guliyev, Mr. Shahin Novruzlu, Mr. Rashadat Akhundov, Mr. Uzeyir Mammadli, Mr. Rashad Hasanov, Mr. Zaur Gurbanli, and Mr. Ilkin Rustamzade, activists of the civic and pro-democracy movement "NIDA". All of them were accused of "illegal purchase or storage with a purpose of selling narcotics" (Article 234.1 of the Criminal Code), "illegal possession of firearms and ammunition" (Article 228.1 of the Criminal Code) and, later on, of "planning and organising public order offences", and were then sentenced from 6 to 8 years of imprisonment. In December 2014, Messrs. Zaur Gurbanli and Uzeyir Mammadli benefited from a presidential amnesty, while others remain in jail.

Today, Azeri authorities keep intensifying the muzzling of critical voices, fearing a destabilisation movement similar to the ones that have broken out in some of Azerbaijan's neighbouring regions. The last 2014 crackdown actually fits within a regional geopolitical context driven not only by the strengthening of Russia's hegemony in the post-soviet region - further intensified since the Euromaidan events in Ukraine - but also by the growing restrictions of public freedoms in neighbouring Turkey, especially since the 2013 Gezi park protests. In addition, if Turkey seems to get increasingly involved in the conflict between Armenia and Azerbaijan in the Nagorno-Karabakh region<sup>17</sup>, Azeri human rights defenders working on this issue remained the target of a severe repression in 2014, such as Leyla Yunus and Arif Yunusov, or journalist Rauf Mirqadirov, *de facto* extradited from Turkey to Azerbaijan, and who remain detained to this day. The double influence of Turkey and Russia over Azerbaijan leaves little hope for a reversal of the political situation.

## I - 3 - Loss of diplomatic and international organisations influence against a backdrop of oil and gas profits

The increasing loss of foreign diplomatic influence over Azerbaijan is an alarming factor as well. This loss of influence is inversely proportional to the growing dependence of the West towards the Azeri oil and gas, transported to the West since 2006 through the Baku-Tbilisi-Ceyhan oil pipeline and the Baku-Tbilisi-Erzurum gas pipeline, bypassing Russian territory.



Map of the existing and planned oil and gas pipelines from Baku. [http://commons.wikimedia.org/wiki/File:Baku\\_pipelines.svg](http://commons.wikimedia.org/wiki/File:Baku_pipelines.svg) © Thomas Blomberg

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15. The European Court of Human Rights issued several rulings in that regard, and the Parliamentary Assembly of the Council of Europe (PACE) adopted several reports and resolutions, such as: Doc. 13079 (2012): "Follow-up to the issue of political prisoners in Azerbaijan"; Doc. 13084 (2012): "The honouring of obligations and commitments by Azerbaijan"; Doc. 13079 Add. (2013): "Follow-up to the issue of political prisoners in Azerbaijan" and Res. 2018 (2014): "Progress of the Assembly's monitoring procedure".

16. Today, awareness of the "Islamic danger", results some Arab revolutions such as in Libya, and is sometimes used by authorities to denigrate dissenting voices and to urge people to support the President.

17. Turkey is a member of the OSCE Minsk Group.

Yet, as geopolitical tensions are heightening between Russia on the one hand, and the European Union and the United States on the other, the West has become increasingly dependent on the "alternative energy road map" of which Azerbaijan is the cornerstone. On March 4, 2015, President Aliyev met with Bulgarian Prime Minister Boiko Borisov in an attempt to revive the Nabucco pipeline project, another stream that would supply gas from Azerbaijan to Europe via Bulgaria or Turkey<sup>18</sup>. Oil and gas profits put Azerbaijan in a dominant position in their diplomatic relations with the European Union, and allow the regime to take an arrogant and threatening stand without fear of consequences. At the end of 2014, the Head of the Political and Social Affairs Department of the Azeri Presidential Administration, Ali Hasanov, publicly accused "the West" of developing biased analyses and pursuing a double standard policy towards Azerbaijan, and stated that his country did not fear "groundless" pressures or threats from some international organisations or countries.

As for its relations with the Council of Europe, Azerbaijan's "caviar diplomacy" was criticised several times, being accused of buying votes within the institution's Parliamentary Assembly<sup>19</sup>. The apex of repression towards civil society in Azerbaijan started in April 2014, as the country was preparing itself to take the chairmanship of the prestigious Council of Europe Committee of Ministers.

*While chairing the Council of Europe Committee of Ministers from May to November 2014, Azerbaijan violated most of the principles established by the European Convention on Human Rights by muzzling the Azeri civil society through arbitrary arrests and detentions, as well as serious obstacles to the functioning of independent NGOs.*

*Furthermore, in November 2014, a delegation of the Venice Commission was not able to go to Azerbaijan, as Azeri authorities reportedly ignored the request of the Commission's Secretariat<sup>20</sup>. The Venice Commission was to publish, a few weeks after its visit, an opinion on the Azeri legislation relating to freedom of association (see infra).*

*The lack of cooperation with the United Nations Subcommittee on prevention of torture (SPT) by the end of 2014 is equally alarming. Azerbaijan ratified the Optional Protocol to the United Nations Convention against Torture (OPCAT) in 2009, thereby accepting unlimited and unplanned visits of all its detention facilities by its national supervisory organs as well as by the Subcommittee. However, in a press release dated September 17, 2014, the SPT announced an unprecedented decision to suspend its visit in Azerbaijan "due to obstructions it encountered in carrying out its mandate":*

**The United Nations Subcommittee on Prevention of Torture (SPT) has decided to suspend its visit to Azerbaijan due to obstructions it encountered in carrying out its mandate under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), to which Azerbaijan is a party.**

**The delegation was prevented from visiting several places where people are detained and was barred from completing its work at other sites, despite repeated attempts to do so and assurances of unrestricted access to all places of deprivation of liberty by Azerbaijani authorities.**

**As a result of these serious breaches of Azerbaijan's obligations under the Optional Protocol, the delegation concluded that the integrity of its visit, scheduled to run from 8 to 17 September, had been compromised to such an extent that it had to be suspended<sup>21</sup>.**

18. See Reuters, *Bring back Nabucco pipeline, Bulgaria says after South Stream demise*, March 4, 2015, available at: <http://www.reuters.com/article/2015/03/04/bulgaria-azerbaijan-pipeline-idUSL5N0W61T520150304>. In addition, the Trans-Adriatic Pipeline (TAP), a rival project to Nabucco that would bring Azeri gas to Italy via Greece, is still under consideration.

19. See European Stability Initiative, *Caviar Diplomacy: How Azerbaijan silenced the Council of Europe – part 1*, May 24, 2012, available on: [http://www.esiweb.org/pdf/esi\\_document\\_id\\_131.pdf](http://www.esiweb.org/pdf/esi_document_id_131.pdf).

20. See Contact.az, *The Venice Commission calls for the repeal restrictive amendments to the law on NGOs*, December 15, 2014, available at: <http://contact.az/docs/2014/Politics/121500099967en.htm#.VQGAU2bcVHA>

21. See Office of the High Commissioner for Human Rights, *UN human rights body suspends Azerbaijan visit citing official obstruction*, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15047&LangID=E#sthash.MqZmamF9.dpuf>

The visit was later scheduled to 16-24 April 2015.

The Council of Europe Commissioner for Human Rights, Mr. Nils Muižnieks, was for his part able, in October 2014, to access the detention facility where Leyla Yunus, Intigam Aliyev, Anar Mammadli and Rasul Jafarov are currently detained. The Commissioner painted a rather bleak picture of its last visit in Azerbaijan:

**I recently returned from one of the most difficult missions of my two-and-a-half year tenure as Council of Europe Commissioner for Human Rights. In late October I was in Azerbaijan, the oil-rich country in the South Caucasus, which just finished holding the rotating chairmanship of the 47-member Council of Europe. Most countries chairing the organisation, which prides itself as the continent's guardian of human rights, democracy and the rule of law, use their time at the helm to tout their democratic credentials. Azerbaijan will go down in history as the country that carried out an unprecedented crackdown on human rights defenders during its chairmanship. All of my partners in Azerbaijan are in jail<sup>22</sup>.**

At the national level, the economic growth resulting from oil revenues has contributed to buying "social peace", allowing the President to further strengthen his grip on political and public life. Today, the capital Baku resembles more new cities of the Gulf than old Soviet towns. Thanks to oil revenues, the development and public works policy launched by the authorities throughout the first decade of 2000 caused poverty levels to decrease from 45% to 11% between 2003 and 2010<sup>23</sup>. In 2010, 55% of the country's gross domestic product (GDP) relied on hydrocarbons. The promotion of an Azeri welfare state has allowed the authorities to deploy even more easily national propaganda campaigns presenting any actor (individual or organisation) criticising the established order as an agent manipulated "from abroad". For several years now, authorities have indeed been depicting NGOs negatively, calling them "traitors", "foreign agents", "criminals", "unpatriotic", etc. The trials against Messrs. Rasul Jafarov and Intigam Aliyev, accused of tax evasion, forgery, embezzlement or illegal business activity because of the foreign funding they receive, sadly illustrate this phenomenon (see profiles *infra*). If, at least for now, the population shows little support towards the situation of human rights in the country, putting defenders in a very isolated position, the decline in Azerbaijan's oil production since 2010<sup>24</sup>, as well as the recent drop in oil prices and devaluation of the Azeri currency, could, according to some observers, cause some economic difficulties eventually leading to a growing dissatisfaction among the population<sup>25</sup> towards the authorities in charge.

#### **I - 4 - A highly corrupted country, while being a member of the Extractive Industries Transparency Initiative (EITI)**

In 2014, Azerbaijan ranked 126th in the NGO "Transparency International" Annual Corruption Perception Index. The country remains since 2000 in the category of "highly corrupted countries"<sup>26</sup>. In a 2010 report, Crisis Group Europe explained how corruption has today reached every level of the administration, making the population dependent on the system<sup>27</sup>. Furthermore, the Anti-Corruption Commission directly depends on the Government, and is therefore quite reluctant to investigate on politically sensitive cases or cases involving officials<sup>28</sup>. In 2011 and 2012, investigation journalist Khadija Ismayilova revealed in a series of press articles the holding by President Aliyev's family<sup>29</sup> of financial shares in the banking, mining<sup>30</sup>, construction<sup>31</sup> and

22. See [https://www.facebook.com/permalink.php?story\\_fbid=369984526510797&id=118705514972034](https://www.facebook.com/permalink.php?story_fbid=369984526510797&id=118705514972034)

23. See International Monetary Fund, Republic of Azerbaijan: 2010 Article IV Consultation – Staff Report, 2010, p. 14.

24. See [http://www.eia.gov/countries/analysisbriefs/Azerbaijan/images/petroleum\\_production\\_consumption.png](http://www.eia.gov/countries/analysisbriefs/Azerbaijan/images/petroleum_production_consumption.png)

25. See Crisis Group Europe, Report number 207, *Azerbaijan: vulnerable stability*, September 3, 2010.

26. See Corruption Perception Index 2014, available at: <http://www.transparency.org/cpi2014/results>

27. See Crisis Group Europe, Report number 207, *Azerbaijan: vulnerable stability*, September 3, 2010.

28. See *Idem*.

29. See RFE/RL, *Azerbaijani President Aliyev Named Corruption's 'Person Of The Year*, January 2, 2013, available at : [www.rferl.org/content/azerbaijan-ilham-aliyev-corruption-person-of-the-year/24814209.html](http://www.rferl.org/content/azerbaijan-ilham-aliyev-corruption-person-of-the-year/24814209.html)

30. See RFE/RL, *Azerbaijani Government Awarded Gold-Field Rights To President's Family*, May 3, 2012, available at: [http://www.rferl.org/content/azerbaijan\\_gold-field\\_contract\\_awarded\\_to\\_presidents\\_family/24569192.html](http://www.rferl.org/content/azerbaijan_gold-field_contract_awarded_to_presidents_family/24569192.html)

31. See RFE/RL, *Azerbaijani President's Family Benefits From Eurovision Hall Construction*, May 9, 2012, available at: [http://www.rferl.org/content/azerbaijan\\_first\\_family\\_build\\_eurovision\\_arena/24575761.html](http://www.rferl.org/content/azerbaijan_first_family_build_eurovision_arena/24575761.html)

telecommunication industries. She is now in pre-trial detention (see profile *infra*)<sup>32</sup>.

Generally speaking, the Government makes a point of giving a positive image of the country, denying corruption's endemic character. Azerbaijan takes advantage of being a founding member of the Extractive Industries Transparency Initiative (EITI) in order to enhance its international reputation. The EITI is a multi-stakeholders initiative, which includes governments, companies, civil society groups and investors.

On October 15, 2014, the Board of EITI addressed a warning to the Azeri Government, after it concluded that "the situation for civil society in Azerbaijan was unacceptable", and that "EITI implementation could not take place with the current circumstances for civil society"<sup>33</sup>. At that meeting, the EITI Board urged Azerbaijan to undergo a compliance check with EITI's principles starting from January 1, 2015, therefore advancing by five months the deadline initially planned. The EITI is criticising Azerbaijan, among other things, for failing to register the grants of groups working on issues relating to the extractive industries and freezing the bank accounts of the majority of independent groups, members of EITI's NGO coalition. In 2014, half of the 110 NGOs member of this coalition had their accounts blocked. As a result, twenty among the most active NGOs were forced to stop their activities as of July 2014<sup>34</sup>.

At the end of 2014, some of the Government's leading dignitaries publicly declared their intention to leave the EITI if the organisation was to consider excluding their country<sup>35</sup>. On April 14, EITI's board deemed Azerbaijan was falling short in fulfilling the group's obligations and downgraded the country from full member to candidate.

## I - 5 - Manipulation to repress two Talysh minority leaders

Azerbaijan has 15 national minority groups<sup>36</sup>. Located in the southern part of Azerbaijan, neighbouring Iran and speaking a language resembling the north-east Iranian one, the Talysh minority currently represents about 1% of the population, according to official statistics<sup>37</sup>. Although a large majority of the Talysh people values Azeri's secularity, the official Iranian media are trying to spread, through TV and radio broadcasts available in southern Azerbaijan, a religious way of life, inspired by the Iranian model. Furthermore, Azeri security services regularly record the conduct of illegal activities by the Iranian security services within the Azerbaijan territory<sup>38</sup>. On the other hand, Russia, which hosts an important Talysh diaspora, has recently proven its influence over Azerbaijan on this question (see profile *infra*).

It is indeed against a background of manipulation of tensions with Iran on the one hand, and/or of Russian influence on the other, that the Azeri authorities have muzzled, for the past years, two leaders of this community in the country: Mr. **Novruzali Mammadov**, who died in detention, and Mr. **Hilal Mammadov**, detained since 2012 (see profile *infra*). Complaints have been filed before the European Court of Human Rights on their behalf<sup>39</sup>.

32. See RFE/RL, *Azerbaijani President's Daughters Tied To Fast-Rising Telecoms Firm*, June 27, 2011, available at: [http://www.rferl.org/content/azerbaijan\\_president\\_aliyev\\_daughters\\_tied\\_to\\_telecoms\\_firm/24248340.html](http://www.rferl.org/content/azerbaijan_president_aliyev_daughters_tied_to_telecoms_firm/24248340.html)

33. See Minutes of the 28<sup>th</sup> EITI Board Meeting, Naypyitaw, October 14-15, 2014, p. 18, available at: [https://eiti.org/files/Minutes/Minutes-from-the-28th-EITI-Board-meeting-Myanmar\\_Final.pdf](https://eiti.org/files/Minutes/Minutes-from-the-28th-EITI-Board-meeting-Myanmar_Final.pdf)

34. See Human Rights Watch, *Azerbaijan: Transparency Group Should Suspend Membership*, 14 August 2014, available at: <http://www.hrw.org/news/2014/08/14/azerbaijan-transparency-group-should-suspend-membership>

35. See eiti.az, *Statement of the Chairman of the EITI Government Commission on the decision of the EITI International Board regarding Azerbaijan*, available at: <http://www.eiti.az/index.php/en/news/95-latest-news/2014/553-statement-24-10-2014>.

36. See *Azerbaijan Ministry of Foreign Affairs, national minorities*, available at: <http://www.mfa.gov.az/?language=en&options=content&id=114>

37. These statistics are challenged by Talysh activists.

38. See Fareed Shafee, *Inspired from abroad: the external sources of separatism in Azerbaijan*, *Caucasian Review of International Affairs*, Vol. 2(4), autumn 2008.

39. See *Novruzali Mammadov and others v. Azerbaijan* (case No. 35432/07, lodged on August 13, 2007), and *Hilal Mammadov v. Azerbaijan* (case no. 81553/12, lodged on November 19, 2012).

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## II - LEGAL FRAMEWORK USED TO REPRESS HUMAN RIGHTS DEFENDERS

### II - 1 - Severe restrictions to freedom of association

The Law on Non-Governmental Organisations 894-IG, adopted in 2000, replaced a previous law dating back to 1992. The Law of 2000 was initially more liberal and progressive than the 1992 legislation, but since then it has been amended several times to restrict the exercise of the right to freedom of association.

The 2014 crackdown on NGOs and their leaders was preceded by the adoption of a series of legislative amendments targeting civil society. Indeed, the new anti-NGO laws, adopted by Parliament in 2013 and which entered into force in 2014, in a context of restrictions on freedom of association throughout the post-soviet space under the influence of Russian President Vladimir Putin, increase the capacity of the authorities to order the temporary suspension and the permanent banning of national and foreign NGOs, and introduce additional administrative requirements and increased checks on NGOs. Moreover, unregistered NGOs, including a number of human rights NGOs, can no longer receive grants.

In addition, while using unregistered grants is an administrative offence, courts now tend to consider such funds as personal income in an attempt to prosecute their recipients on the basis of the Criminal Code.

#### Obstacles to the establishment and registration of NGOs

Article 12.1 of the Law on NGOs provides that public associations can operate without legal personality, which is not the case for branches of foreign NGOs.

However, registration remains a pre-requisite to open bank accounts, buy premises, receive grants within the framework of the Law on Grants of 1998, and enjoy tax benefits under the Tax Code of 2000.

The main issue lies in the fact that it is very hard to register NGOs in practice: NGOs are often requested to submit additional documents which are not required by national legislation, and receive multiple requests for corrections (whereas the law provides that all requests for corrections must be transmitted in one go). In addition, the timeline for registration is often not respected, and automatic registration after no response from the Ministry of Justice within the required timeframe is not implemented in practice.



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### **Obstacles to the registration of Rasul Jafarov's Human Rights Club**

On December 10, 2010, Rasul Jafarov and two other individuals submitted all documents required by law for the registration of a new organisation, the Human Rights Club, with the Ministry of Justice. The Ministry returned these documents on three occasions, each time claiming new errors. Accordingly, Mr. Jafarov and his colleagues referred the case to court.

Despite several hearings before the Administrative-Economic Court in 2011, the Appeals Court in March 2012, and again the Administrative-Economic Court in July 2012, November 2012, and February 2013, the Human Rights Club has yet to be registered. Mr. Jafarov is now in arbitrary detention for having used unregistered grants (see profile *infra*).

### **Suspension of the Azerbaijan branch of Human Rights House (AHRH)**

In March 2011, the Ministry of Justice suspended the work of the Azerbaijan branch of Human Rights House (AHRH), a member of the International Human Rights House Network. The Ministry of Justice ordered the organisation to cease all its activities, claiming it was breaching a law of 2009 which requires all international organisations or their local affiliates in Azerbaijan to sign a separate agreement with the government to be able to operate.

AHRH had been registered and operating since 2007. The legislative amendments do not specify whether the new requirements apply retroactively to organisations already registered, nor do they define the nature of such agreements with the government.

On March 16, 2011, the government adopted a decree defining the rules governing the registration of foreign NGOs and negotiations with them on required agreements, leaving the Ministry of Justice with a broad and discretionary power in interpreting and defining those agreements.

A few days before the adoption of the decree, on March 10, 2011, AHRH was forced to suspend its activities until the conclusion of an agreement with the government. To date, Human Rights House has still not been able to reopen its branch in Azerbaijan.

### Obstacles to the reception and use of funding

On February 15, 2013, the Azerbaijani parliament adopted a set of amendments to the Law on Grants, the Law on Non-governmental Organisations, and the Code of Administrative Offences, which entered into force on February 3, 2014.

The amendments increased administrative sanctions for NGOs receiving funding from donors without a formal grant agreement registered with the Ministry of Justice.

A regulation adopted in 2009 already required NGOs to have all grant agreements approved by the Ministry of Justice within 30 days. Under this regulation, the Ministry has seven days to register the grant. Only registered NGOs may conclude such grant agreements, and an NGO is not authorised to implement a project until it receives notification that the ministry has registered the grant agreement.

The amendments adopted in 2013 significantly increased pecuniary fines for failure to file a proper grant agreement with the Ministry of Justice. Failure can lead to the confiscation of the property held by the organisation and its representatives.

The following amendments were introduced into the Code of Administrative Offences:

The failure to submit copies of grant agreements to the Ministry of Justice within 30 days of the

.....  
signing of the agreement is subject to pecuniary fines ranging between 5,000 and 7,000 Azeri manat (6,308 Euro)<sup>40</sup>. NGO managers are also liable to fines ranging from 1,000 to 2,500 manat.

Implementing a project without a grant agreement is punishable by the confiscation of assets from the recipient NGO, and pecuniary fines ranging from 8,000 to 15,000 manat. NGO managers are also liable to fines between 2,500 to 5,000 manat.

The failure to include the required information into financial reports submitted to competent government agencies on donations received by an NGO is subject to a pecuniary fine ranging from 5,000 to 8,000 manat for organisations, and from 1,500 to 3,000 manat for NGO managers.

Accepting cash donations higher than 200 manat is punishable by a fine of 7,000 to 10,000 manat for an NGO leader, while the NGO itself is liable to a fine ranging from 1,000 to 2,500 manat.

Therefore, such amendments have a very negative impact on the capacity of unregistered organisations to operate. Previously, individuals affiliated with unregistered organisations could sign grant agreements without being exposed to any sanction, and use the funds to implement the activities of the unregistered organisation. Alternatively, some unregistered organisations could conclude such agreements and use the bank accounts of registered NGOs to transfer the grant funds.

The new amendments make such arrangements illegal and require each NGO to conclude agreements in its own name. However, given the difficulties if not the impossibility of some NGOs to get registered by the Ministry of Justice, many human rights defenders are now forced to operate on the margins of an increasingly restrictive legislation.

On July 24, 2014, the President of Azerbaijan signed a decree annulling the "Decree of the President No. 27 on Approval of the Rules for Registration of Grant Agreements" dated February 12, 2004. According to the new decree, the Cabinet of Ministers was tasked with preparing new rules within three months and submitting them to the President. Accordingly, new rules for grant agreements registration should have been adopted before November 1, 2014.

However, on November 19, 2014, President Aliyev signed into law new amendments to the legislation on Grants and NGOs which had been voted by Parliament on October 17, 2014, posing additional obstacles to the capacity of NGOs to operate. Alongside these amendments, the President issued two decrees for their implementation, one of which eliminated the date of "November 1, 2014" as the deadline for preparing new grant registration rules. No specific deadlines are reflected in the new decree. Below is a brief summary of the legislation now in force:

*Donations from foreign donors:*

Local NGOs can receive donations from a foreign donor only if the foreign donor has concluded an agreement with the Ministry of Justice.

Local NGOs, as well as branches or representations of foreign NGOs, are required to submit information on their donors and on the amount of the received donations to both the Ministry of Justice and the Ministry of Finance.

No bank operation or any other operation on donations can be performed without communicating information about such operation. A new article in the Code of Administrative Offences may sanction the failure to do so.

*Grants by foreign donors:*

Foreign legal entities may provide grants to Azeri NGOs only if they have signed an agreement with the Ministry of Justice, have a registered branch or representation in Azerbaijan, and have obtained the right to transfer such grant in the Republic of Azerbaijan.

.....  
<sup>40</sup>. As of March 18, 2015, the exchange currency rate was 1 manat for 0.89 Euros.

.....  
An opinion on the "financial-economic expediency" of a grant by the competent executive body is required for obtaining the right to transfer the grant.

According to the same, the Cabinet of Ministers was tasked to define the applicable procedure to register as a donor within two months of the entry into force of the amendments.

*Conclusion and registration of service contracts:*

NGOs must conclude a contract for the provision of any service and the fulfilment of any work.

In addition, NGOs must register with the Ministry of Justice all service contracts concluded with a foreign entity. The procedure for such a registration was to be determined by the Cabinet of Ministers within two months of the entry into force of the amendments.

NGOs providing services or fulfilling works without a contract or on the basis of non-registered contracts are liable under the Code of Administrative Offences. The sanction applicable in case of violation was to be determined by the Cabinet of Ministers within two months of the entry into force of the amendments.

*Local donors:*

The list of registered local donors was extended, and the Cabinet of Ministers was instructed to update such list. All state bodies providing grants to NGOs are required to coordinate with the NGO Support Council.

To date, the Cabinet of Ministers has reportedly not yet determined the above-mentioned procedures and responsibilities.

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To sum up:

1. the law now bans unregistered NGOs from receiving grants, thereby excluding a significant number of organisations which have been denied the right to register by the Ministry of Justice;
2. all grants must be registered with the Ministry of Justice; however, if an NGO cannot get registration, it is *de facto* impossible to register any grant;
3. such grants are deemed by the authorities as the personal income of their recipients, in an attempt to justify criminal accusations against human rights defenders.

The new amendments have also provided the government with the possibility to suspend the funds of unregistered NGOs by arbitrarily freezing the bank accounts of organisations and their leaders.

In late April 2014, the accounts of the non-registered Institute for Peace and Democracy (IPD) were frozen, as well as those of the registered Legal Education Society. In July 2014, the same happened to the non-registered "Human Rights Club". In August 2014, the bank accounts of some other NGOs and their representatives were similarly frozen on the basis of articles 308.1 ("abusing official powers") and 313 ("service forgery") of the Criminal Code upon the request of the General Prosecutor's Office, including those of the Media Rights Institute, chaired by Mr. Rashid Hajili, the Democratic Institutions and Human Rights Public Union, chaired by Mr. Elchin Abdullayev, the Democracy and Human Rights Resource Centre, chaired by Mr. Asabali Mustafayev, the Azerbaijan Lawyers Association, chaired by Mr. Annagi Hajibayli, and the Centre for National and International Studies, chaired by Ms. Leyla Aliyeva. Personal bank accounts of a number of human rights defenders, including Ms. Mirvari Gahramanli, chairperson of the Oilman Rights Protection Committee, Mr. Rasul Jafarov, and Mr. Elchin Abdullayev were also frozen.

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### **International Media Support (IMS)**

The International Media Support (IMS), along with its partner in Azerbaijan, IRFS, has been working to promote public dialogue, Internet dialogue and freedom of speech in the country. As part of a criminal case brought against IRFS and several local and international NGOs receiving foreign grants, following the adoption of amendments to the NGO Law in February 2014, the family of IMS programme manager and regional expert Ms. Gulnara Akhundova, has been facing harassment. On November 5, 2014, her mother was summoned to the Public Prosecutor's office where she was interrogated about her daughter's human rights activities. Later on, the apartment of her mother was searched. Ms. Gulnara Akhundova is living in Copenhagen, where she continues to work for IMS.

### **International Research and Exchanges Board (IREX)**

On October 8, 2014, the "International Research and Exchanges Board" (IREX), a U.S. non profit organisation supporting academic exchanges and independent media development, announced the suspension of its operations in Azerbaijan. This followed a series of retaliation measures since 2014: on July 31, its bank account were frozen, and in September, its Baku premises were raided by the police as part of a criminal investigation targeting several local and international NGOs receiving foreign grants. All of the equipment was confiscated along with organisational documents and reports.

Previously, in October 2013, even before the amendments to the Laws on NGOs and Grants, the bank accounts used by the Election Monitoring Centre had already been frozen as a result of the opening of criminal proceedings.

This legislation on NGOs breaches a great number of international and regional standards related to freedom of association. For more information, please refer to Appendix 2 of the present report.

Azerbaijan was also condemned on several occasions by the European Court of Human Rights (ECtHR) for breaching its obligations in terms of freedom of association<sup>41</sup>. The ECtHR has recently communicated several cases related to the arrest of human rights defenders between 2012 and 2014, i.e. Mr. Anar Mammadli, Mr. Hilal Mammadov, Mr. Intigam Aliyev, Ms. Leyla Yunus, Mr. Arif Yunusov, and Mr. Jafarov<sup>42</sup>.

## **II - 2 - Articles of the Criminal Code used to repress human rights defenders**

As outlined above, several restrictive pieces of legislation on NGOs have recently forced human rights defenders to operate on the fringes of the law. A large number of criminal accusations brought against defenders who are presently detained – such as "embezzlement", "large scale fraud", "illegal business" – are related to the receipt and use of grants which, due to restrictions contrary to international human rights standards, they failed to register with the Ministry of Justice, and which, as a consequence, are deemed as their personal income.

In addition, other articles of the Criminal Code are also regularly used abusively against human rights defenders to criminalise them.

Appendix 2 of the present report outlines the main articles of the Criminal Code brought against human rights defenders currently in arbitrary detention.

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41. See in particular *Nabat Ramazanova and Others* (case no. 44363/02, February 1, 2007), related to a public association named "Assistance to the Human Rights Protection of the Homeless and Vulnerable Residents of Baku"; *Demokratik Fealiyyet Cemiyeti and Zeynilli* (case no. 37094/03, September 20, 2007, dec. struck out), related to a public association named "Association of Democratic Activity" based in Nakhchivan; *Sheyda Nasibova* (case no. 4307/04, October 18, 2007), related to a public association named "The Journalist Inquiry Centre"; *Ismayil Ismayilov* (case no. 4439/04, January 17 2008), related to a public association named "Humanity and Environment"; *Intiqam Aliyev and Others* (case no. 28736/05, December 18, 2008), related to a public association named "Azerbaijani Lawyers Forum"; *Tebiyeti Muhafize Cemiyeti and Israfilov* (case no. 37083/03, October 8, 2009), related to a public association named "Association for Protection of Nature", and *Islam-Ittihad Association and Others* (application no. 5548/05, November 13, 2014).

42. See applications no. 47145/14 and 68762/14, *Anar Asaf Oglu MAMMADLI against Azerbaijan* (lodged on June 17 and October 16, 2014), application no. 81553/12, *Hilal MAMMADOV against Azerbaijan* (lodged on November 19, 2012), application no. 71200/14, *Intigam ALIYEV against Azerbaijan* (lodged on November 6, 2014), applications no. 59620/14 and 68817/14, *Leyla YUNUSOVA and Arif YUNUSOV against Azerbaijan* (lodged on September 1 and October 17, 2014) and application no. 69981/14, *Rasul Agahasan Oglu JAFAROV against Azerbaijan* (lodged on October 10, 2014).

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### III - HUMAN RIGHTS DEFENDERS ARBITRARILY DETAINED AS OF APRIL 1, 2015

The following human rights defenders remained in arbitrary detention as of April 1, 2015: **Mr. Intigam Aliyev, Mr. Rasul Jafarov, Ms. Leyla Yunus, Mr. Arif Yunus, Ms. Khadija Ismayilova, Mr. Hilal Mammadov, Mr. Anar Mammadli and Rauf Mirqadirov.**

It is important to note that on March 18, 2015, on the eve of the Norouz (New Year) holiday, President Ilham Aliyev pardoned more than 100 prisoners including Mr. **Bashir Suleymanli**, whose profile is outlined below.

#### **Intigam Aliyev**

Occupation: Lawyer

Arbitrarily detained since: August 8, 2014

#### **Accusations:**

Tax evasion (Article 213.1 of the Criminal Code)

Abusing official powers (Article 308.2)

Illegal business (Article 192.2)

Embezzlement (Article 179.3.2)

Service forgery (Article 313)



#### **Profile:**

Mr. Intigam Aliyev, Head of the Legal Education Society, is a prominent human rights lawyer in Azerbaijan, who is also currently representing over 100 victims before the European Court of Human Rights (ECtHR).

Mr. Intigam Aliyev has submitted more than 200 applications to the ECtHR, 40 of which were successful. Out of these 40 cases, fourteen concerned the 2005 parliamentary elections, two concerned limitations to freedom of expression, four were on violations of the right to freedom of assembly, and three concerned cases of torture. He was awarded the Homo Homini Human Rights Prize by People in Need.

At the time of his arrest, the investigative body in charge of his case seized all of his personal files, notebooks and USB sticks, without documenting this seizure as required by the legislation, and although these elements were not related to the charges. Furthermore, authorities refused to provide Mr. Aliyev's defence team with copies of the seized documents, sealed the Legal Education Society offices, and prohibited access. These actions demonstrate the willingness of authorities to block the review of complaints submitted by Mr. Intigam Aliyev to the ECtHR.

Over the past years, Mr. Intigam Aliyev also took part in a series of events at the level of the Council of Europe, the European Union (EU), the United Nations (UN) as well as in OSCE's annual Human Dimension Implementation Meetings. He often spoke on issues related to the freedoms of association and assembly, the right to free and fair elections, the prohibition of torture, the right to a fair trial and political prisoners.

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On the eve of the opening of the June 2014 session of the Council of Europe Parliamentary Assembly (PACE), during which President Ilham Aliyev was due to deliver a speech in plenary, Mr. Intigam Aliyev spoke on a panel of an event organised to alert PACE members and media. During this event, he openly criticised the deterioration of the situation of human rights in the country ahead of the Azeri chairmanship of the Council of Europe Committee of Ministers.

Shortly before his arrest, Mr. Aliyev was working with Leyla Yunus and Rasul Jafarov on an updated list of political prisoners.

On November 19, 2014 and February 2, 2015, the ECtHR communicated two applications related to his detention and judicial harassment (see *supra*).

**His trial began on January 16, 2015.  
The case is currently being reviewed by the Baku Court on Grave Crimes.**

**Place of detention:** Kurdakhani

**Health status:**

Since the beginning of his detention, Mr. Aliyev's health has severely deteriorated. Members of his family who visited him on November 7, 2014 have reported that after two hours, he was neither able to talk nor to stand up. He suffers from violent headaches, loss of appetite and insomnia. A medical exam ran at the end of October, revealed that he was suffering from cervical osteochondrosis and of intervertebral disc disorders – which require hospitalisation.

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## Rasul Jafarov

Occupation: Chairman of the Human Rights Club  
Arbitrarily detained since: August 2, 2014



### Accusations:

Illegal business (Article 192 of the Criminal Code)  
Tax evasion (Article 213)  
Abusing official powers (Article 308)  
Embezzlement (Article 179.3.2)  
Service forgery (Article 313)

### Profile:

Rasul Jafarov is the Chairman of the "Human Rights Club". In December 2012, he launched the "Art for Democracy" campaign, supporting youth mobilisation for justice through art and non-violence by documenting different attacks against freedom of expression. The campaign also supported dissenting artists, who are victims of harassment by the authorities.

At the beginning of 2012, Rasul Jafarov was one of the main organisers of the "Sing for Democracy" campaign, ahead of the Eurovision song contest hosted in Baku the same year. The campaign highlighted the increasing repression of public freedoms in Azerbaijan but also documented cases of forced eviction for the construction of the "Crystal Hall" competition site. The campaign became even more successful when Loreen, winner of the Eurovision contest, publicly supported the campaigners and tweeted her support to Rasul Jafarov.

More recently, Mr. Jafarov took part in a compilation listing 142 political prisoners in Azerbaijan published ahead of the 2013 presidential election. The number of political prisoners listed is much higher than the census made by other organisations, mainly due to the fact that the Human rights Club included in its list various groups of religious activists imprisoned in 2007-2013. Shortly before his arrest, Mr. Jafarov was working along with Leyla Yunus and Intigam Aliyev on an updated list of political prisoners.

Rasul Jafarov was also working on another campaign, "Sport for Democracy", to alert on the worrying situation of human rights in Azerbaijan, ahead of the European Games which will be held in Baku in June 2015.

On December 3, 2014, the ECtHR communicated an application on his case (see *supra*).

**His trial began on January 15, 2015. On April 16, 2014, the Baku Grave Crimes Court sentenced him to 6.5 years in jail.**

**Place of detention:** Kurdakhani

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## Leyla Yunus

Occupation: Director of the Institute for Peace and Democracy (IPD),  
member of the OMCT General Assembly  
Arbitrarily detained since: July 30, 2014



### Accusations:

State treason (Article 274 of the Criminal Code)  
Large scale fraud (Article 178.3.2)  
Fake manufacturing or selling of official documents (Articles 320.1 and 320.2)  
Large scale tax evasion (Article 213.2.2)  
Illegal business with extraction of income in large size (Article 192.2.1)

### Profile:

Leyla Yunus, has long fought for human rights and the rights of ethnic minorities in her country. She has been heading the IPD since 1995. In October 2014, Leyla Yunus was awarded the Polish Prize of Sérgio Vieira de Mello, and was among the three finalists for the Sakharov Prize. She also received the distinction of "Chevalier de l'Ordre National de la Légion d'Honneur" from the French government in 2013. She has worked on numerous projects relating to human rights, political persecution, corruption, human trafficking, gender-based issues and violations of the right to property. Ms. Yunus and Messrs. Intigam Aliyev and Rasul Jafarov were all members of a group compiling a list of political prisoners in Azerbaijan.

With her husband, Ms. Yunus has also worked towards reconciliation between Azerbaijan and Armenia, two countries divided on the conflict in the Nagorno-Karabakh region. Leyla Yunus has been involved since 2005 in the "Track II Diplomacy" Initiative, and initiated the project of a dialogue between Azeri and Armenians, developed jointly with a regional research centre in Armenia.

On April 29, 2014, Ms. Yunus was called to testify by the department of grave crimes of the General Prosecutor's Office in a criminal proceeding against journalist Rauf Mirqadirov, columnist and press correspondent in Turkey for the independent newspaper Zerkalo. Mr. Mirqadirov, whose press accreditation was withdrawn with no official reason, had been extradited the day before from Turkey to Azerbaijan and arrested at his arrival in Baku. He was then placed in detention on charges of spying for Armenia (see infra).

Ms. Yunus' questioning lasted nine hours, and questions all focused on joint projects between the IPD and Armenian NGOs, as well as on her relations with journalist Rauf Mirqadirov. Following this questioning IPD's premises were searched and authorities seized all the computers and books belonging to Mr. Yunusov, along with printed documents, including the business card of an Armenian historian. Shortly after, IPD's bank accounts were frozen.

On July 30, 2014, Ms. Yunus was again forcibly brought to the department of grave crimes of the General Prosecutor's Office, where she had to undergo a six-hour questioning. Informed by telephone, her husband joined her at the department of grave crimes of the General Prosecutor's Office, where he was also questioned. Ms. Yunus and Mr. Yunusov were both accused, and then held in pre-trial detention. Mr. Yunusov was later placed under house arrest, and arrested again on August 5, for violation of his conditional sentence.



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On January 5, 2015 and February 2, 2015, the ECtHR communicated two applications on her case (see supra).

**On February 18, 2015, the pre-trial detention of Ms. Yunus was extended until July 28, 2015. She remains in pre-trial detention, pending trial.**

**Place of detention:** Kurdakhani

**Health status:**

The health status of Ms. Yunus is preoccupying. She is suffering from a medical condition known as hepatomegaly - a liver enlargement and deterioration. She was examined in December 2014 by a German doctor, Christian Witt, whose official results have not been made public. Ms. Yunus' lawyer, who visited her on February 8, reported that she was preoccupied over the lack of information about the doctor's diagnosis, that she was suffering from sight problems, and that she was continuing to lose weight. Ms. Yunus, who was previously denied access to medication by the prison authorities, has lost 16 kilograms since her arrest. She also suffers from severe diabetes and is being denied parcels of food required for a diabetic diet.

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## Arif Yunusov

Chief of the department of conflictology of the IPD  
Arbitrarily detained since: August 5, 2014



### Accusations against Arif Yunusov:

State treason (Article 274 of the Criminal Code)  
Large-scale fraud (Article 178.3.2)

### Profile:

With his wife, Leyla Yunus, Mr. Yunusov has worked towards reconciliation between Azerbaijan and Armenia, two countries divided on the conflict in the Nagorno-Karabakh region.

On April 29, 2014, Ms. Yunus was questioned for nine hours on joint projects between the IPD and Armenian NGOs, as well as on her relations with journalist Rauf Mirqadirov. Following this questioning, IPD's premises were searched and authorities seized all the computers and books belonging to Mr. Yunusov, along with printed documents, including the business card of an Armenian historian. Shortly after, IPD's bank accounts were frozen.

Following the new arrest of Ms. Yunus on July 30, 2014, which was followed by a six-hour questioning at the department of grave crimes of the General Prosecutors' Office, Mr. Yunusov was informed by telephone and joined her at the department of grave crimes, where he was also questioned. Ms. Yunus and Mr. Yunusov were both accused, and then held in pre-trial detention. Mr. Yunusov was later placed under house arrest, and arrested again on August 5, for violation of his conditional sentence.

On January 5, 2015 and February 2, 2015, the ECtHR communicated two applications on his case (see *supra*).

**On February 23, 2015, the pre-trial detention of Mr. Yunusov was extended to August 5, 2015. He remains in pre-trial detention, pending trial.**

**Place of detention:** Investigative prison of the Ministry of National Security. The Investigative Prison is the only remaining prison, which is not subordinated to the Ministry of Justice. Various international human rights bodies such as the UN Committee Against Torture (CAT) or the European Committee for the Prevention of Torture (CPT) have expressed their concerns about the extreme level of isolation of the detainees and the absence of a proper medical unit in this prison. The UN CAT has recommended this prison to be either transferred to the Ministry of Justice or to be closed down.

### Health status:

Mr. Arif Yunusov is facing poor health conditions, as he is currently on drugs against insomnia, and suffers from high blood pressure.

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## Khadija Ismayilova

Occupation: investigation journalist,  
collaborates with Radio Free Europe /  
Radio Liberty  
Arbitrarily detained since: December 5, 2014



### Accusations:

Inciting suicide (Article 125 of the Criminal Code)

### Followed by:

Illegal business (Article 192.2.2)  
Tax evasion (Article 213.1)  
Abusing official powers (Article 308.2)  
Large-scale embezzlement (Article 179.3.2)

### Profile:

Khadija Ismayilova is a well-known independent reporter in Azerbaijan. She received the Gerd Bucerius Free Press of Eastern Europe Award by Zeit-Stiftung on May 24, 2012, the Courage of Journalism Award by the Washington-based International Women's Media Foundation on October 24, 2012, and the Global Shining Light Award on October 14, 2013. Since 2010, she has published a series of articles relating to corruptions cases involving President Ilham Aliyev and his family. Authorities never publicly commented on these revelations.

In one of her articles, Ms. Ismayilova exposed the level of involvement of the president's daughter, Arzu Aliyeva, within the banking sector, as well as her co-ownership of a holding which has, over the past years, won several unpublished calls for tender and took over all of the associated services of the national airline company, Azerbaijan Airlines, as well as of the airport transportation services, the duty-free, and the technical air services operations.

In June 2011, Ms. Ismayilova also revealed the name of a number of offshore companies registered under the names of President Aliyev's daughters.

Furthermore, in a report published in May 2012, Ms. Ismayilova exposed that the AIMROC consortium, responsible for gold and silver extractions in the Chovdar mine with 2.5 Million manat estimated reserves, belonged to three Panamanian companies chaired and conducted by the President's wife and daughters. The presidential office has refused to comment on this revelation.

Over the past years, Ms. Ismayilova also took part in several human rights conferences abroad. Shortly before her arrest, on September 5, she was held for two hours at the Baku international airport while coming back from an OSCE meeting in Tbilisi. On October 5, she was again held at the airport after a trip to Strasbourg during which she met officials from the Council of Europe. Twice, on October 12, and November 18, she was banned from leaving the territory.

On December 5, 2014, Ms. Khadija Ismayilova was sentenced to two months in preventive detention for "inciting" her ex-partner Tural Mustafayev "to commit suicide", on the basis of Article 125 of the Criminal Code. These accusations are the result of an investigation opened at the end of October. Before charges were brought against Ms. Ismayilova, she was called for questioning

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by the Prosecutor. On the day before the hearing, the Chief of Presidential Administration, Ramiz Mekhtiev, made a speech about the so-called “double standards of the world order and contemporary Azerbaijan”, and accused, amongst others, Ms. Ismayilova of “propagating heinous ideas towards the country”. Ms. Ismayilova’s detention seems therefore to constitute a direct act of retaliation against her human rights activities, on the basis of false charges. Ms. Ismailova has also found herself facing other charges since October 3, following a complaint made by a political activist, Mr. Elman Türkoglu, who accused her of defamation.

**On January 27, 2015, the pre-trial detention of Ms. Ismayilova was extended for one month and 19 days. On March 6, 2015, it was again extended until May 24. She remains in pre-trial detention, pending trial.**

On February 13, 2015, new charges of “large-scale embezzlement” (Article 179.3.2), “illegal business” (Article 192.2.2), “tax evasion” (Article 213.1) and “abusing official powers” (Article 308.2) were brought against Ms. Khadija Ismayilova.

These new charges are related the December 26 raid in the premises of RFE-RL (see infra), which Ms. Ismayilova headed until the beginning of 2011.

**Place of detention:** Kurdakhani

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## Hilal Mammadov

Occupation: defender of the rights of the Talysh ethnic minority, Head of the Talysh Cultural Centre, and editor-in-chief of the *Tolishi-Sado* (the Voice of Talysh) newspaper (the only media outlet in Talysh language in Azerbaijan)  
Arbitrarily detained since: June 21, 2012



### Accusations:

State treason (Article 274 of the Criminal Code)  
Inciting national, racial or religious hostility (Article 283.2.2)  
Illegal manufacturing, purchase, storage, transfer, transportation or selling of narcotics or psychotropic substances (Article 234.4.3)

### Profile:

Journalist, activist, Hilal Mammadov is considered as the leader of the Talysh community and a defender of their rights since his "predecessor", political prisoner **Novruzali Mammadov**, died in detention on August 17, 2009. From 2007 to August 2009, Hilal Mammadov was leading the Novruzali Mammadov Defence Committee.

Shortly before his arrest in 2012, Mr. Mammadov published a short video ("*mekhana*") on social networks entitled "*Ti kto takoi? Davai, do svidania!*" ("Who are you? Get out!") to raise the awareness of the population on the Talysh community. The video became famous throughout the entire post-Soviet region and was seen more than 20,000,000 times. It was even used by opponents to Russian president Vladimir Putin. In June 2012, Russian TV channel NTV went to Azerbaijan to report on Hilal Mammadov and his actions in the Archivan village. Hilal Mammadov was warned by the authorities that if the shooting was to be held, he would face retaliatory measures. However, the event did happen and Hilal Mammadov delivered an opening speech in which he stated that the popularity of his hit video caused more talk on Azerbaijan than the Eurovision. Threats against him started at that moment.

Arrested on June 21, 2012, he was sentenced to five years in prison following an unfair trial, based on fallacious accusations of drug possession and spying for Iran.

In its November 2013 opinion, the UN Working Group on Arbitrary Detention concluded that "*the charges of treason and incitement to national, racial, social and religious hatred and hostility are based on Mr. Mammadov's legitimate exercise of his right of freedom of expression (...)*" and requested his immediate release.

On November 4, 2014, the ECtHR communicated an application on his case. A few months earlier, on August 27, 2014, the ECtHR had also communicated an application on the case of Mr. Novruzali Mammadov (see *supra*).

**As of April 1, 2015, Hilal Mammadov was serving a five-year prison sentence in Jail #17.**

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## Anar Mammadli

Occupation: Chairman of the Azerbaijani Election Monitoring and Democracy Studies Centre (EMDSC)  
Arbitrarily detained since: December 16, 2013



### Accusations:

Embezzlement (Article 179.3.2 of the Criminal Code)  
Illegal business with extraction of income in large size (Article 192.2.1)  
Tax evasion (article 213.1)  
Abusing official powers (Article 308.2),  
Service forgery (Article 313)

### Profile:

**Anar Mammadli**, Chairman of the Election Monitoring and Democracy Studies Centre (EMDSC), has committed himself to the promotion of the right to free elections and to the promotion of democracy since 1997, when he co-founded, along with **Bashir Suleymanli**, the Secular Youth Progress Organisation. In 2001, he contributed to setting up the Election Monitoring Centre (EMC) – the registration of which was denied by Azeri authorities on five occasions – and which was finally closed down five months before the 2008 presidential election. In September 2014, Mr. Anar Mammadli was awarded the Vaclav Havel Human Rights Prize by the Parliamentary Assembly of the Council of Europe (PACE).

In December 2008, Messrs. Anar Mammadli and Bashir Suleymanli co-founded the EMDSC – the registration of which is still denied by Azeri authorities – and which is the subject of a pending complaint before the ECtHR since March 2010. Ever since, the EMDSC has conducted electoral and political monitoring activities at the national level. In its 2010 interim report, the EMDSC concluded that the parliamentary elections, held on the same year, did not comply with the Azeri legislation as well as international standards and should therefore not be considered as free and fair<sup>43</sup>. Likewise, the EMDSC denounced irregularities during the October 2013 presidential election.

On October 27, 2013, the department of grave crimes of the General Prosecutor's Office opened an investigation against Messrs. Mammadli and Suleymanli for tax evasion, abuse of authority and illegal business. Mr. Mammadli was arrested on December 16, 2013 and placed in detention for a three-months period (renewed on March 3, 2014), pending trial. Mr. Suleymanli was put under house arrest with a ban to leave the territory.

On May 26, 2014, both Messrs. Mammadli and Suleymanli were condemned to five years and a half and three and a half years in prison respectively. Mr. Suleymanli was arrested in the court room.

In 2012, Mr. Mammadli played an important role supporting the activities of the Council of Europe and of its Special Rapporteur on political prisoners. He also actively took part in consultations with the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, which were held in June 2013, in Geneva.

On December 3, 2014, the ECtHR communicated an application on his case.

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43. See Azeri Report, *EMDSC Issued Its Interim Report on Azerbaijani Parliamentary Elections*, November 4, 2010, available at: [http://azerireport.com/index.php?option=com\\_content&task=view&id=2456](http://azerireport.com/index.php?option=com_content&task=view&id=2456)

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**As of April 1, 2015, Anar Mammadli remained in arbitrary detention.**

**Place of detention of Mr. Mammadli:** Jail #13

**Health status of Mr. Mammadli:**

Jail number 13 is located in an unfavourable environment surrounded by polluted waters. As a consequence of water contamination, Mr. Mammadli has developed allergies, and is currently receiving treatment. However, his requests to the prison administration to change cell have remained unanswered.

**However, on March 18, 2015, his colleague Bashir Suleymanli was pardoned in the framework of a clemency decree signed by President Ilham Aliyev, and was released on March 19, 2015 (see profile infra).**

## Rauf Mirqadirov

Occupation : columnist and former press correspondent in Turkey for *Zerkalo* newspaper Arbitrarily detained since: April 19, 2014

### Accusation:

State treason  
(Article 274 of the Criminal Code)



### Profile:

Rauf Mirqadirov is a columnist for the independent newspaper *Zerkalo*. Until his arrest, he was the newspaper's correspondent based in Turkey.

Mr. Mirqadirov has written numerous articles, including on Azerbaijan's relations with Russia and Turkey, as well as on the conflict in the Nagorno-Karabakh region<sup>44</sup>. He is also involved in the "alternative diplomacy" initiative between Armenia and Azerbaijan regarding the Nagorno-Karabakh region issue, and took part in a series of meetings organised by NGOs in Armenia aiming at improving the dialogue between the two parties. The Institute for Peace and Democracy (IPD), chaired by Leyla Yunus, jointly organised some of these activities<sup>45</sup>.

His latest article was analysing Russian's action in Ukraine<sup>46</sup>,<sup>3</sup> and their possible impact on the South Caucasus region. Furthermore, Mr. Mirqadirov has also criticised Turkish President Recep Tayyip Erdogan's policy<sup>47</sup> in some of his articles.

Mr. Mirqadirov's problems in Turkey began immediately after the official visit of Mr. Erdogan in Azerbaijan on April 7, 2014. On April 18, indeed, the Turkish police arrested Mr. Mirqadirov and his wife on a bus in Ankara, alleging that his residency permit had expired. Mr. Mirqadirov was then taken to the police station, where he was informed of his extradition to Azerbaijan, without any further reasons.

On April 20, the Azerbaijan General Prosecutor's Office formally accused him of "high treason", for allegedly spying for Armenia.

On April 28, defenders Leyla Yunus and Arif Yunusov were questioned and designated as witnesses in Rauf Mirqadirov's investigation (see *supra*). All the Prosecutor's questions to them referred to their work on the strengthening of dialogue with the Armenians and on their relations with Mr. Mirqadirov.

**Mr. Mirqadirov, whose preventive detention was renewed four times, remains detained in the premises of the National Security Ministry, officially until May 19, 2015.**

44. See Zerkalo, *It is necessary to achieve a change in the status quo, but without the use of force component*, April 17, 2014, available in Russian on: <http://www.zerkalo.az/2014/o-glavnoy-zadache-nashey-diplomatii/>

45. See Human Rights Watch, *Azerbaijan: Les autorités devraient cesser de harceler la militante des droits humains Leyla Yunus*, 2 mai 2014, available on: <http://www.hrw.org/fr/news/2014/05/02/azerbaïdjan-les-autorites-devraient-cesser-de-harceler-la-militante-des-droits-humai>

46. See Zerkalo, *Supports of Vladimir Putin can appear anywhere in the post-Soviet space*, April 19, 2014, available in Russian on: <http://www.zerkalo.az/2014/betmen-spaydermen-i-zelenyie-chelovechki>

47. See Zerkalo, *Azerbaijan: Time to make a choice*, April 7, 2014, available in Russian on: <http://www.zerkalo.az/2014/azerbaydzhanupora-sdelat-vyibor/>



## IV - OTHER CASES OF HARASSMENT AGAINST HUMAN RIGHTS DEFENDERS

### IV - 1 - Bashir Suleymanli pardoned and released, but after nearly 10 months of arbitrary detention

On March 18, 2015, **Bashir Suleymanli**, Executive Director of the Election Monitoring and Democracy Studies Centre (EMDSC), was pardoned within the framework of a clemency decree signed by President Ilham Aliyev. He was released on March 19, 2015, while his colleague **Anar Mammadli**, Chairman of the EMDSC, remains behind bars.

#### **Bashir Suleymanli**

Occupation: EMDSC Executive Director  
Arbitrarily detained from: May 26, 2014 to March 19, 2015

Bashir Suleymanli freed from prison  
in the morning of March 19, 2015

#### **Accusations against Bashir Suleymanli:**

Embezzlement (Article 179.3.2 of the Criminal Code)  
Illegal business with extraction of income in large size (Article 192.2.1)  
Tax evasion (Article 213.1)  
Abusing official powers (Article 308.2)  
Service forgery (Article 313)

#### **Profile:**

Bashir Suleymanli is committed to the promotion of the right to free elections and the promotion of democracy since 1997, when he co-founded, along with Anar Mammadli, Chairman of the Election Monitoring and Democracy Studies Centre (EMDSC), the Secular Youth Progress Organisation.

In December 2008, Messrs. Anar Mammadli and Bashir Suleymanli co-founded the EMDSC – the registration of which is to date still denied by Azeri authorities – and which has been the subject of a pending complaint to the ECtHR since March 2010. Ever since, the EMDSC has conducted electoral and political monitoring activities at the national level. In its 2010 interim report, the EMDSC concluded that the parliamentary elections, held the same year, did not respect either the Azeri legislation or international standards, and should therefore not be considered as free and fair<sup>48</sup>. Likewise, the EMDSC denounced irregularities during the October 2013 presidential election.

On October 27, 2013, the department of grave crimes of the General Prosecutor's Office opened an investigation against Messrs. Mammadli and Suleymanli for tax evasion, abuse of authority and illegal business. Mr. Mammadli was arrested on December 16, 2013 and placed in detention for a three-month period (renewed on March 3, 2014), pending trial. Mr. Suleymanli was put under house arrest with a complete ban to leave the territory.

On May 26, 2014, both Messrs. Mammadli and Suleymanli were condemned to five years and a half and three and a half year in prison respectively. Mr. Suleymanli was arrested in the courtroom.

**On March 18, 2015, Bashir Suleymanli was pardoned within the framework of a clemency decree signed by President Ilham Aliyev. He was released on March 19, 2015.**



48. See Azeri Report, *EMDSC Issued Its Interim Report on Azerbaijani Parliamentary Elections*, November 4, 2010, available at: [http://azerireport.com/index.php?option=com\\_content&task=view&id=2456](http://azerireport.com/index.php?option=com_content&task=view&id=2456)

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## **IV - 2 - The muzzling of journalists reporting on issues related to human rights:**

For ten years now, President Aliyev has been listed as a "Predator of Press Freedom" by Reporters Without Borders (RSF). Since the murder of journalist Elmar Huseynov in 2005 which has remained unsolved to this date, and the numerous attacks and acts of systematic harassment against journalists, many of them are left with two alternatives: self-censorship or exile.

Today, the few independent journalists remaining in Azerbaijan are living under worrying conditions.

The mission witnessed the complete isolation of journalists covering human rights issues. The latter are trying to pursue their activities under extremely precarious material and financial conditions. Overall, Azerbaijan's monopolistic economy makes it difficult for newspapers to get funds out of advertisement. Even medium-sized companies, which are regularly bullied as well, fear to buy advertising in newspapers with a critical editorial line towards the authorities. As a direct consequence, since 2006, the independent press agency Turan has had to decrease its staff from 45 to 23. The fear of reprisals – including at the judiciary level – is also perceptible. This has further intensified since the detention of Rauf Mirqadirov (see profile *supra*), columnist and press correspondent in Turkey for the independent newspaper *Zerkalo* and of Khadija Ismayilova, investigation journalist (see profile *supra*), as well as the closing of *Radio Free Europe-Radio Liberty* (RFE-RL)'s offices.

*In the morning of December 26, 2014, a few days before the mission of the Observatory departed, the premises of one of the last independent media in Azerbaijan were the target of a search conducted by the investigators of the national prosecutor's office. Journalists of Radio Free Europe-Radio Liberty (RFE-RL), including some who were detained for several hours before being summoned for questioning, published pictures of their ransacked office. Some computers and official documents were taken and offices were sealed, raising fears of a long-lasting closure. The Head of RFE-RL, Mr. Kenan Aliyev, reported that Azerbaijan's Prosecutor General along with "armed policemen" had searched their premises arguing a "court decision to close their offices".*

*The police explained that the search was part of an investigation on foreign funding of the media.*

*Following this search, Mr. Thorbjørn Jagland, Secretary General of the Council of Europe, declared that the closure of the RFE-RL headquarters "once again raises concerns for freedom of expression in Azerbaijan", adding that the Council "will ask for the reasons and legal justification of this action from Azerbaijani authorities".*

*The Council of Europe Commissioner for Human rights, Nils Muiznieks, also expressed his "dismay", stating that "this unacceptable event adds to the numerous cases of repression of dissenting voices", calling upon Azeri "authorities to stop reprimanding freedom of expression once and for all". The American State Department said it was "deeply disturbed" by the search carried out in Baku.*

*RFE-RL offices remain closed to this day.*

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### **IV - 3 - The harassment and removal of lawyers representing human rights defenders**

Another worrying phenomenon is the removal and harassment of lawyers representing human rights defenders. Indeed, on October 29, 2014, Ms. Leyla Yunus was deprived of her lawyer, Mr. Javad Javadov. This decision followed Mr. Javadov's active criticism of the judicial process against Leyla Yunus.

Moreover, it is highly possible that another one of her lawyer's, Mr. Alaif Hasanov, will be soon disqualified. The latter was the subject of a complaint by Ms. Nuriya Huseynova, cellmate of Ms. Leyla Yunus, who claims that Mr. Hasanov accused her of being a "criminal", in a report published in *Azadlig* newspaper on September 17, 2014. On November 6, 2014, Mr. Hasanov was sentenced to 240 hours of community work. Though he appealed the decision, on January 6, 2015, the case was still pending before the Supreme Court.

On November 5, 2014, Ms. Yunus was deprived of her third lawyer, Mr. Khalid Bagirov, with no further explanation. On December 10, 2014, Mr. Bagirov's licence was suspended, depriving him of his right to defend his other clients. Mr. Bagirov was also representing Arif Yusunov and Rasul Jafarov and was planning on undertaking Intigam Aliyev's defence.

Mr. Bagirov is now facing disbarment charges at the request of the Azerbaijan Bar Association. A preliminary hearing was held on February 2, 2015. If the court accepts the Bar's request, Mr. Bagirov could face de-registration for life, which will prevent him from defending any case of political prisoner on a permanent basis.

Likewise, three out of the four lawyers of Mr. Intigam Aliyev - Messrs. Anar Qasymly, Alayif Hasanov and Fariz Namazly – were notified that they could not participate in his defence any longer as they had been summoned as witnesses to his trial.

In addition, on March 12, 2015, Mr. Yalchin Imanov, a lawyer representing Ms. Khadija Ismayilova, was disqualified after being called as a witness in her criminal case, as a result of the merging of two different criminal proceedings against her, in which he was a lawyer in one case, and a witness in the other.

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## IV - 4 - The precarious situation of Messrs. Huseynov and Nasibov

### Emin Huseynov

Occupation: Director of the Institute for Reporters' Freedom and Safety (IRFS)  
Hiding since: August 8, 2014



#### Accusations:

Illegal business (Article 192 of the Criminal Code)  
Tax evasion (Article 213)  
Abusing official powers (Article 308)

#### Profile:

Emin Huseynov is a prominent human rights defender recognised at the international level for his activities of promotion of freedom of expression and free media in Azerbaijan. He is the Director of the Institute for Reporters' Freedom and Safety (IRFS), a media rights organisation which has consistently denounced violations of freedom of expression in Azerbaijan, and highlighted the restrictions faced by journalists in the country.

On August 19, 2014, the Nasimi District Court in Baku ordered his pre-trial detention on charges of "abuse of office", "illegal business" and "tax evasion".

On August 8, 2014 a search was conducted in the office of IRFS, during which a range of equipment was seized, including 15 desktop computers, 7 laptops, 3 video cameras, over 200 videotapes, 200 CD-ROM drives, more than 20 hard drives from servers, and a hard disk recorder from the video surveillance system put in place to monitor IRFS offices. In addition, the investigators seized numerous documents, such as grant agreements, financial documents, legal documents, human rights reports and press clippings.

On the same day, Mr. Huseynov went into hiding, and eventually managed to get into the premises of the Swiss embassy on August 18. On February 11, 2015, the Embassy of Switzerland in Baku officially admitted hosting Mr. Huseynov since August. A diplomat met by the Observatory delegation back in January reported that already at the time, the Azeri authorities seemed to suspect where Mr. Huseynov was hiding, as the Swiss embassy was constantly monitored.

At the judicial level, on October 17, 2014, the Tax Audit Department of the Ministry of Taxes issued a decision, ordering the IRFS to pay 94,891.85 Azerbaijani manat as "unpaid taxes", coupled with a financial sanction of 48,665.56 manat for "not paying taxes on time". IRFS contested the decision before the Baku Administrative-Economical Court №1, before which the case is currently pending.

According to some reports, the health of Mr. Huseynov is deteriorating. According to the same sources, in October 2014, a doctor from Switzerland examined him at the Swiss embassy, and concluded that he was suffering from high blood pressure and an old spinal injury caused by an encounter with Azerbaijani police batons at an "unauthorised" demonstration in 2003. The doctor reportedly added that given the current health status of Mr. Huseynov, his life would be at stake if he were to be detained in an Azeri prison facility.

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Another human rights defender and journalist, Mr. Ilgar Nasibov, working for the Democracy and NGOs Development Resource Center in Nakhchivan, was violently attacked on August 21, 2014. Mr. Nasibov was hospitalised with serious injuries. In the meantime, a criminal investigation filed by his attacker was opened against him for "unintentional arm and injuries" (Article 127.1 of the Criminal Code). Before the hearing, he was banned from leaving Nakhchivan's exclave, an excessive preventive measure, preventing him from getting the medical assistance needed (people are usually banned from leaving the country pending trial, but not a specific region). Mr. Nasibov's aggressor was identified as Mr. Farid Askerov, who acknowledged his guilt during the trial, asking for Mr. Nasibov's forgiveness. The accusations towards Mr. Nasibov were then dismissed.

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## CONCLUSION

Over the past year, the authorities of Azerbaijan have intensified a systematic crackdown on human rights defenders and other critics. Azerbaijan's presidency of the Committee of Ministers of the Council of Europe has sadly coincided with increased repression against human rights voices and NGOs.

If Bashir Suleymanli was pardoned on March 18, 2015, eight other human rights defenders remained in jail as of April 1, 2015. In addition, the Azeri authorities have progressively added layers of repressive provisions to the NGO and Grants legislations, to literally suffocate civil society organisations and annihilate their capacity to operate.

In the meantime, the authorities have tried to show a positive image of the country, and to display themselves as a model of development to the outside world. In the past decade, oil and gas profits have allowed the Azeri government to launch massive public work policies at the local level, which were often accompanied by corruption and forced evictions.

On the international stage, energy-related profits have also contributed to reshape Azerbaijan's relations with Western countries, and as geopolitical tensions are currently heightening between Russia on the one hand, and the European Union and the United States on the other, the West has become increasingly dependent on the "alternative energy road map" of which Azerbaijan is the cornerstone. In that context, their influence on the Azerbaijan power has gradually eroded.

In the same vein, the willingness of the authorities to interact with international NGOs and notably allow them access to detention centres seems to have equally decreased over the past years, as in the course of their January mission in Baku, FIDH and OMCT were neither able to meet with representatives of the Ministry of Justice, nor granted access to detention facilities.

It is to be feared that the run-up to the first "European Games", to be held in the Azeri capital in June, will even further restrict the ability of independent journalists to report freely on human rights and democracy issues. In addition, the ongoing trials of Rasul Jafarov and Intigam Alyiev contribute to perpetuate the chilling effect on an already paralysed Azeri civil society.

Ahead of the Games, the Observatory plans to resume its "interrupted" mission in Azerbaijan, with a view to visit human rights defenders in jail, and to call once again for their release and for the end of harassment against civil society. The upcoming Games should be seized by the authorities as an opportunity to show their willingness to finally implement their international human rights obligations: human rights defenders and political prisoners should be freed, NGO laws should be amended, bank accounts of NGOs and activists should be unfrozen, civil society should be able to operate, journalists should be able to report freely, civil and political rights should be respected, criticism should be accepted. It is only under such conditions that the Baku Games could be seen as a success. On the contrary, if all these conditions are not met, these Games will be seen by the international community as another mockery aimed at disguising the already tarnished image of the country in terms of human rights and democracy.

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# RECOMMENDATIONS

## **To national authorities:**

Guarantee in all circumstances the physical and psychological integrity of all human rights defenders, including those currently in prison, in Azerbaijan;

Put an end to any act of torture or ill-treatment against detained human rights defenders, and provide them with all the medical assistance they need;

Grant international intergovernmental and non-governmental organisations full access to detention centres where human rights defenders are detained;

Allow the mission of the Observatory to resume, with a prior guarantee that mission delegates will be granted permission to visit imprisoned human rights defenders;

Allow representatives of the OSCE, the Council of Europe and the United Nations to carry out country visits on the situation of human rights defenders in Azerbaijan;

Fully implement the decisions of the European Court of Human Rights, as well as the recommendations of the United Nations treaty bodies and Universal Periodic Review;

Immediately and unconditionally release all detained human rights defenders, as their detention is arbitrary and only aims at sanctioning their human rights activities;

Guarantee the right to defence of all detained human rights defenders by lifting obstacles undermining access to their lawyers and putting an end to the practice of depriving human rights defenders from the support of their designated lawyers by calling them as witnesses in the case;

Ensure the respect of freedom of association, in accordance with the International Covenant on Civil and Political Rights as well as the UN Declaration on Human Rights Defenders;

To that end, amend the Law on NGOs and the Law on Grants to make them consistent with the recommendations of the Opinion No. 787/2014 of the Venice Commission, adopted on December 15, 2014;

Put an end to any kind of harassment – including at the judicial and investigatory levels – against all human rights defenders, including those currently in prison, in Azerbaijan;

Conform with the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, especially: Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels”; Article 5, which underscores the right of every individual to form, join, and participate in non-governmental organisations ; and Article 12.2, which provides that the State shall “take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of his or her rights”;

Ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Azerbaijan.

.....  
**To the United Nations, and especially to the special procedures (notably to Special Rapporteurs on the situation of human rights defenders, on torture and other cruel, inhuman or degrading treatment, on the rights to freedom of peaceful assembly and of association, on the promotion and protection of the right to freedom of opinion and expression, and on the independence of judges and lawyers):**

Publicly condemn the deterioration of the situation of human rights defenders in Azerbaijan, including acts of harassment, arbitrary detention and assault, and call for the condemnation of those responsible for such violations;

Call upon Azeri authorities to guarantee physical and psychological integrity of all human rights defenders, including those currently detained;

Continue to pay special attention to the protection of human rights defenders in Azerbaijan, in accordance with the UN Declaration on Human Rights Defenders, and to monitor the implementation of recommendations addressed to Azerbaijan.

More specifically:

*To the Special Rapporteur on the situation of human rights defenders:*

Follow-up, in cooperation with other relevant special procedures, individual cases of defenders victim of harassment in Azerbaijan;

Request an invitation from Azeri authorities in order carry out an official visit on the situation of human rights defenders.

*To the Special Rapporteur on the rights to freedom of peaceful assembly and of association:*

Follow-up, in cooperation with other relevant special procedures, individual cases of defenders and NGOs facing obstacles relating freedom of peaceful assembly and of association;

Request an invitation from Azeri authorities in order carry out an official visit on the situation of freedom of association and assembly in the country.

*To the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression:*

Follow-up, in cooperation with other relevant special procedures, individual cases of defenders facing obstacles relating freedom of expression;

Request an invitation from Azeri authorities in order carry out an official visit on the situation of freedom of expression in the country.

*To the Special Rapporteur on the independence of judges and lawyers:*

Follow-up, in cooperation with other relevant special procedures, individual cases of defenders and NGOs facing judicial harassment aiming at sanctioning their human rights activities;

Request an invitation from Azeri authorities in order carry out an official visit on the degree of independence of judges and lawyers in the country.

*To the United Nations Committee Against Torture (CAT):*

In the list of issues ahead of the next review of Azerbaijan, include the issue of cruel, inhuman and degrading treatment suffered by human rights defenders while in detention.



.....  
To the members of the Human Rights Council:

Take concerted action to urge the Government of Azerbaijan to end repression of human rights defenders, civil society actors and independent voices in the country, and the use of cruel, inhuman or degrading treatment or punishment against them.

Move towards the adoption of a resolution establishing an international monitoring mechanism of the human rights situation in Azerbaijan; in the meantime, as a matter of urgency, member and observer States of the Council should put forward a joint oral statement under the Council's agenda item 4 ("situations that require the Council's attention").

**To the European Union and its Member States:**

Work on a strategic approach to advance human rights in Azerbaijan

The European Union must avoid seeking a precipitated conclusion of the current negotiations with Azerbaijan in order to conform to the EU human rights commitments, including:

The EU Strategic Framework on Human Rights and Democracy, which states that: *"The EU will promote human rights in all areas of its external action without exception. In particular, it will integrate the promotion of human rights into [...] energy, [...] policy"* and that the EU will *"make use of the full range of instruments at its disposal, including sanctions and condemnation"*.

The 27 February 2012 Council Conclusions on the South Caucasus where the EU emphasised *"the need for progress in democratic reform, the rule of law and respect for human rights and fundamental freedoms, especially in freedom of expression and assembly, as well as principles of international law as a crucial factor for the further deepening of the EU's bilateral relations with Azerbaijan"*.

The 18 September 2014 European Parliament Resolution (2014/2832(RSP)), which reaffirms the Parliament's position that *"EU support for and cooperation with the Republic of Azerbaijan, including the ongoing negotiations for a Strategic Modernisation Partnership, must be conditional on and include clauses relating to the protection and promotion of human rights"* and that *"its consent to the signature of a partnership agreement with Azerbaijan will be conditional on the satisfactory reflection of the above-mentioned requirements, the release of human rights defenders, the withdrawal of legislation restricting the operations of independent civil society, and the cessation of repression and intimidation of NGOs, independent media, opposition forces, human rights defenders, minority rights activists and youth and social network activists"*.

To that end, the EU must:

Systematically condemn, especially through statements at the highest level, the harassment, arrests and violence against human rights defenders, including against NGO members, journalists and lawyers, and call for the condemnation of those responsible for such violations.

Engage the Azeri authorities on an agenda of key tangible actions to be taken as a matter of emergency, which should encompass the recommendations to the national authorities presented supra, starting with the liberation of prisoners arbitrarily arrested and prosecuted for having used their right of freedom of expression.

Review the Memorandum of Understanding between the EU and Azerbaijan in the field of energy to integrate an explicit reference to human rights and justice reform as a prerequisite for the holding of the new implementation meetings.

Consider, as requested by the European Parliament in its 24 May 2012 and 18 September 2014 Resolutions, the possibility of targeted sanctions against those responsible for human rights violations, should the Azeri authorities fail to take the actions proposed in the human rights agenda.

.....  
Indicate explicitly what are the concrete benchmarks the Azeri authorities should comply with to be eligible to the tranches of the European Neighbourhood Instrument bilateral assistance, which is presented as conditional upon reforms.

Assess the results of the EU support to the Justice sector in Azerbaijan and re-evaluate the monitoring process and safeguards that have to be put in place in order to ensure that such support does not serve the repressive policy of the authorities. Ensure that the key indicators included in the programme (notably the average duration of pre-trial detention, the number of forced confessions, the number of legislative acts adopted in conformity with the Venice Commission standards, the number of judges held accountable for miscarriage of justice) are met; Consider the re-affectation of financial support towards the independent CSOs, human rights defenders media, lawyers if no concrete result is attained.

Reinforce in any case support to the independent civil society, including human rights defenders, lawyers and media

Ensure that the EU and Member States Delegations and Heads of Mission take all necessary measures of protection, prevention and reaction, especially through local statements and *demarches*, in accordance with EU Guidelines on Human Rights Defenders, in particular:

- to periodically meet with human rights defenders and give visibility to the independent civil society;
- to visit as much as possible detained human rights defenders;
- to observe all hearings in trials against human rights defenders as a result of their human rights activities.

Promote a more strategic engagement of the EU with civil society, undertake a regular evaluation of the evolution of the dynamics among the Azeri civil society, and enhance the support the endangered independent CSOs and media outlets which are financially targeted through freezing of accounts or heavy fines.

### **To the Council of Europe and in particular**

To the Commissioner for Human Rights:

Keep publicly monitoring the situation of human rights defenders in Azerbaijan.

To the Venice Commission:

Call for an amendment of the Law on NGOs and of the Law on Grants, to make them consistent with the recommendations of the Opinion No. 787/2014, published by the Venice Commission on December 15, 2014.

Request another invitation from Azeri authorities for a meeting to address those issues.

To the Parliamentary Assembly:

Pass a resolution, at its next session, condemning the deterioration of the situation of human rights defenders in Azerbaijan;

Call for a suspension of the right to vote of Azeri parliamentarians serving at the PACE, in accordance with rule No. 9 of the PACE rules of procedure, as long as the situation of human rights defenders in the country remains a matter of concern.

To the European Court of Human Rights

Grant high priority to all the applications lodged regarding human rights defenders in detention.

Assess a possible violation of Article 18 of the European Convention on Human Rights.

.....  
Provide recommendations under Article 46 of the European Convention on Human Rights, taking into account the systematic character of the violations of the rights of human rights defenders.

**To the Organisation for Security and Cooperation in Europe (OSCE) and notably**

To the Office for Democratic Institutions and Human Rights (ODIHR)

Keep monitoring the situation of human rights defenders in Azerbaijan

Publicly react on violations of the rights of human rights defenders in Azerbaijan

Monitor the trials of human rights defenders facing judicial harassment in Azerbaijan

Undertake a country visit to Azerbaijan to assess the situation of human rights defenders, and visit human rights defenders in jail.

To the OSCE Permanent Council

Regularly raise cases of violations of the rights of human rights defenders in Azerbaijan, and regularly follow-up on actions taken.

To the OSCE Ministerial Council

Adopt a Decision on the situation of human rights defenders in the OSCE area, with a focus on Azerbaijan, on the occasion of the next Ministerial Council.

To OSCE Participating States

Implement the OSCE/ODIHR Guidelines on Human Rights Defenders, notably by taking all necessary measures of protection, prevention and reaction, and in particular:

- periodically meet with human rights defenders and give visibility to the independent civil society;
- visit as much as possible detained human rights defenders;
- observe all hearings in trials against human rights defenders as a result of their human rights activities.

**To the Extractive Industries Transparency Initiative (EITI):**

Recognise that the participation of independent Azeri civil society organisations is a requirement of EITI, and support its active engagement in each critical step of the EITI process;

Ensure that civil society representatives in the EITI are independent and not belonging to sectors representing the interests of the authorities, political parties or companies;

Ensure that no civil society campaigner is harassed or intimidated for their work to promote transparency;

To that end, urge the government of Azerbaijan to comply with EITI rules protecting free civic participation, by:

Amending the legislation on NGOs and Grants, in accordance with the Opinion No. 787/2014, published by the Venice Commission on December 15, 2014;

Putting an end to judicial harassment of civil society activists and NGOs, including unregistered NGOs pertaining to the EITI;

Unfreezing the bank accounts of affected NGOs, managers, and staff members;

.....  
Allowing international NGOs to operate without undue interference, notably by allowing branches of international NGOs which have been forced to shut down to resume their activities;

Ensuring an enabling environment for unhindered civil society participation and public debate on EITI, entailing the possibility for journalists to report freely, including on the basis of data and reporting drawn from activities of the EITI, and the guarantee for open discussions on EITI issues;

Releasing all political prisoners, including human rights defenders.

**To States having a strong economic relationship with Azerbaijan**

Call on the Azeri authorities to release political prisoners, and in particular human rights defenders.

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# APPENDIXES

## **Appendix 1 - Azerbaijan: Legislation on NGOs contrary to United Nations standards on freedom of association**

### International standards

The 1998 UN Declaration on Human Rights Defenders explicitly recognises human rights defenders the right to associate and to access funding for the purpose of promoting and protecting human rights and fundamental freedoms.

*On the right to associate*, Article 5 of the Declaration states:

"For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: (...) (b) To form, join and participate in non-governmental organisations, associations or groups".

The right to freedom of association is a fundamental universal right enshrined in numerous international treaties and standards, especially Article 22 of the ICCPR. In its Communication No. 1274/2004, the United Nations Human Rights Committee (CCPR) observed: " The right to freedom of association relates not only to the right to form an association, but also guarantees the right of such an association to freely carry out its statutory activities. The protection afforded by Article 22 extends to all activities of an association [...]"<sup>49</sup>.

Permissible restrictions to the exercise of this right are clearly identified in positive law. The only restrictions permissible are those "prescribed by law" and that are "necessary in a democratic society".

In its case law, the CCPR states that on the basis of Article 22 of the ICCPR, any restriction or measure shall only be taken in order "to avoid a real, and not only hypothetical, danger for national security and the democratic order"<sup>50</sup>, and adds that "the existence of any reasonable or objective justification to limit freedom of association is not sufficient. The State Party must also demonstrate that the prohibition of the association and the initiation of criminal proceedings against individuals for belonging to that association are truly necessary to avoid a real, and not only hypothetical, danger for national security and the democratic order, and that less draconian measures would prove insufficient to reach that objective".

The CCPR also highlights that such measures shall be meticulously assessed, and insists on the crucial character of proportionality of any measure or restriction<sup>51</sup>. The CCPR adds in that regard that it is necessary to assess such restrictions in the light of consequences they could have on members of an association<sup>52</sup>.

*On the right to receive funding*, Article 13 of the Declaration states:

"Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration".

While the Declaration on Human Rights Defenders protects the right to seek, receive and utilise funds, it does not place restrictions on the sources of the funding (public / private, local / foreign). Therefore, it implicitly includes in its scope the right of NGOs to access funds from foreign donors. Moreover, the United Nations Special Rapporteur on the situation of human rights defenders emphasised that the Declaration protects the right to "receive funding from different sources,

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49. See CCPR, Communication no. 1274/2004, para 7.2.

50. See CCPR, Communication no. 1119/2002, para. 7.2.

51. See CCPR, Communication no. 1274/2004, para. 7.6.

52. See CCPR, Communication no. 1093/2001, para. 7.3.

.....  
including foreign ones"<sup>53</sup>. The Special Rapporteur, like the Special Representative of the UN Secretary-General on the situation of human rights defenders before her<sup>54</sup> considered that "Governments should allow access by human rights defenders, in particular non-governmental organizations, to foreign funding as a part of international cooperation, to which civil society is entitled to the same extent as Governments"<sup>55</sup>.

Moreover, the Special Rapporteur stressed that access to funding "is an inherent element of the right to freedom of association", and that "in order for human rights organizations to be able to carry out their activities, it is indispensable that they are able to discharge their functions without any impediments, including funding restrictions"<sup>56</sup>.

The Special Rapporteur on the right to peaceful assembly and freedom of association took up these recommendations in his first report to the Human Rights Council. He stated: "Any associations, both registered or unregistered, should have the right to seek and secure funding and resources from domestic, foreign, and international entities, including individuals, businesses, civil society organizations, Governments and international organizations"<sup>57</sup>.

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Recently, at its 64th session, the United Nations (UN) Working Group on Arbitrary Detention (WGAD) adopted decision A/HRC/WGAD/2012/39, published on November 23, 2013, in which it found that the detention of Mr. Ales Bialiatski, President of the Human Rights Centre (HRC) "Viasna" and FIDH Vice President (Belarus), was arbitrary, "being in contravention of article 20, paragraph 1, of the Universal Declaration on Human Rights [UDHR] and article 22 of the International Covenant on Civil and Political Rights" (ICCPR).

In August 2011, Mr. Bialiatski was arrested and charged with "concealment of profits on an especially large scale" under Article 243, part 2, of the Criminal Code of Belarus. On November 24, after almost four months of pre-trial detention, the Minsk Pervomaiski District Court sentenced him to four and a half years of imprisonment under strict regime conditions, confiscation of property - including the premises used for Viasna's offices - and to a fine of 757,526,717 Belarusian Rubles (approximately 70,000 Euros). On January 24, 2012, the Minsk City Court confirmed the sentence on appeal, after all the motions filed by Mr. Bialiatski's lawyers were rejected.

States parties to the ICCPR were "not only under a negative obligation not to interfere with the founding of associations or their activities, but also under a positive obligation to ensure and provide [...] measures such as facilitating associations' tasks by public funding or allowing tax exemptions for funding received from outside the country".

.....  
53. See United Nations General Assembly, report of the Special Rapporteur on the situation of human rights defenders, United Nations Document A/66/203, July 28, 2011, para. 70.

54. See United Nations General Assembly, report of Special Representative of the Secretary-General on the situation of human rights defenders, United Nations Document A/59/401, October 1, 2004, para. 82.

55. See United Nations General Assembly, report of Special Rapporteur on the situation of human rights defenders, United Nations Document A/66/203, July 28, 2011, para. 70.

56. See United Nations General Assembly, report of Special Rapporteur on the situation of human rights defenders, United Nations Document A/64/226, August 4, 2009, para. 91.

57. See UN Human Rights Council, report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Document A/HRC/20/27, paragraphs 67-68, May 21, 2012.

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## **Appendix 2 - Azerbaijan: Legislation on NGOs criticised by the Venice Commission of the Council of Europe**

In December 2014, the Venice Commission of the Council of Europe issued an opinion about the Azeri legislation regarding freedom of association, noting only one improvement - the theoretical 30-day time limit to correct the violations alleged by the authorities - and deploring, for the most part, the increasing restrictions on freedom of association. In its opinion, the Commission concluded that:

- the registration process remains burdensome,
- local branches of foreign NGOs are still subject to particular and problematic regulations,
- NGOs can easily be closed down even for minor infractions,
- new mandatory declarations of grants and donations to authorities have been introduced,
- the supervision of NGOs has been increased, reflecting a "paternalistic" approach of authorities towards civil society.

Therefore, the Venice Commission recommended the Azeri authorities to:<sup>58</sup>

- simplify and decentralise the registration process of NGOs,
- remove the blanket restrictions on the registration and operation of branches and representatives of foreign NGOs, repeal the amendment preventing foreign funding of NGOs,
- remove the provisions allowing interference within internal affairs of NGOs.

## **Appendix 3 - Articles of the Criminal Code used to repress human rights defenders**

### Large-scale fraud (article 178.3.2 of the Criminal Code)

178.1 Fraud is maintaining another persons property or buying another persons property by a deceit or breach of confidence

178.3. The same act committed

178.3.2. with causing damage in the large size

is punished by imprisonment for the term from seven up to twelve years with confiscation of property or without it

### **Embezzlement (article 179.3.2 of the Criminal Code)**

179.1 "Embezzlement" is the fraudulent appropriation of property owned by another person

179.3. [The acts provided under article 179.1] committed

179.3.2. in large size

are punished by imprisonment for the term from seven up to twelve years with confiscation of property or without it

### **Illegal business with extraction of income in large size (article 192.2.1 of the Criminal Code)**

192.1. Implementation of business activity without registration in the order provided by the legislation of the Azerbaijan Republic, or without special sanction (license) in cases when such sanction (license) is mandatory, or with infringement of conditions of licensing, which caused

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58. See Opinion 787/2014 of the Venice Commission, adopted on December 15, 2014, available at: [http://www.coe.int/t/ngo/Source/Venice\\_Comm\\_opinion\\_787\\_2014\\_amendments\\_NGO\\_law\\_Az\\_en.pdf](http://www.coe.int/t/ngo/Source/Venice_Comm_opinion_787_2014_amendments_NGO_law_Az_en.pdf).

.....  
damage to citizens, organizations or state in the significant size [...]

192.2 [...] committed

192.2.1. with extraction of income in large size

192.2.2. by organized group

is punished by restriction of freedom for the term up to three years or imprisonment for the term up to five years

*Nota bene: under the existing legislation, the threshold for the "large size income" is 7,000 manat (approximately 6,300 euro)<sup>59</sup>*

**Tax evasion (article 213.1 of the Criminal Code)**

213.1. Evasion of a physical person from payment of taxes or obligatory social insurance payments in significant amount by not representing declarations on incomes when submission of the declaration is provided by a legislation of the Azerbaijan Republic, or by inclusion in the declaration of obviously deformed data on incomes or charges, or in another way

is punished by the penalty at a rate from one up to two thousand manat or corrective works for the term up to two years or deprivation of liberty for the term up to three years with possible restriction to hold certain public offices or exercise certain professional activity for the term up to three years

**Large-scale tax evasion (article 213.2.2 of the Criminal Code)**

213.2. The same act

213.2.1. committed by an organized group

213.2.2. in large amount

is punished by imprisonment for the term from three to seven years with possible restriction to hold certain public offices or exercise certain professional activity for the term up to three years

*Nota bene: under the existing legislation, the threshold for the term tax evasion in "significant amount" is between 2,000 manat and 50,000 (approximately between 1,800 and 45,000 euros) and the threshold for tax evasion in "large amount" is above 50,000 manat (above 45,000 euro)*

The accused, charged for the first time under Art. 213.1 and 213.2 and in a position to settle the harm caused by the crime is exempt from liability

**Illegal manufacturing, purchase, storage, transfer, transportation or selling of narcotics or psychotropic substances (article 234.4.3)**

234.2. Illegal purchase or storage with a view of selling, manufacturing, processing, transportation, transfer or selling of narcotics or psychotropic substances

234.4. committed

234.4.3. in large amount

is punished by imprisonment for the term from five up to twelve years with confiscation of property

**State treason (article 274 of the Criminal Code)**

"State treason", a deliberate action committed by a citizen of the Azerbaijan Republic to detriment

.....  
59. The exchange rate was calculated as of 18 March 2015.



.....  
of the sovereignty, territorial integrity, state security or defensibility of the Azerbaijan Republic: changeover to enemy side, espionage, distribution of the state secret to foreign state, rendering assistance to a foreign state, foreign organization or their representatives in realization of hostile activity against the Azerbaijan Republic

is punished by imprisonment for the term of from ten up to fifteen years or life imprisonment with confiscation of property or without it

*Nota bene: under Art. 57 of the Criminal Code, life imprisonment is not imposed on women*

### **Inciting national, racial or religious hostility (article 283.2.2)**

The actions directed on excitation of national, racial or religious hostility, humiliation of national advantage, as well as actions directed on restriction of citizens rights, or establishment of the superiority of citizens on the basis of their national or racial belonging, creeds committed publicly or with use of mass media

283.2. [...] committed

283.2.2. by person with use of the service position

are punished by imprisonment for the term from three up to five years

### **Abusing official powers (article 308.2 of the Criminal Code)**

Abusing official powers, that is deliberate, contrary to interests of service, use by the official of service powers from self-interest or other personal interest, causing essential harm to rights and legitimate interests of citizens or organizations or protected by law interests of a society or state

308.2. [...] when entailing heavy consequences:

is punished by imprisonment for the term from three up to seven years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years

*Nota bene: since July 2011, the term "the official" is being applied to "persons undertaking entrepreneurial activity without registering a legal entity". As a result, Art. 308 together with other articles of the Criminal Code (308-314-2) are being applied to leaders and managers of unregistered NGOs*

### **Service forgery (article 313 of the Criminal Code)**

Service forgery, that is bringing by official, and also civil servant or employee of institutions of local government who is not being official, to official documents of obviously false data, as well as entering into specified documents of the corrections deforming their valid contents, committed from mercenary or other personal interest

is punished by the penalty at a rate from five hundred up to one thousand manat, or public works for the term up to two hundred forty hours, or corrective works for the term from one year till two years, or imprisonment for the term up to two years with possible restriction to hold certain public offices or exercise certain professional activity for the term up to two years

### **Counterfeit, illegal manufacturing or selling of official documents, state awards, seals, stamps, forms or use of counterfeit documents (articles 320.1 and 320.2 of the Criminal Code)**

320.1. Counterfeit and illegal manufacture of certificates or other official documents granting the rights or releasing from duties, with a view of its use or selling of such document, as well as manufacturing in same purposes or selling of counterfeit state awards of the Azerbaijan Republic, stamps, seals, forms

.....  
is punished by a penalty in the amount from one to three thousand manat, or corrective work for the term up to two yours, or imprisonment for a term up to two

320.2. The deliberate use of obviously counterfeit documents provided in article 320.1 of the present Code

is punished by the penalty at a rate from two hundred up to five hundred manat, or corrective works for the term up to one year or imprisonment on the same term

Add that preventive detention can be extended up to 18 months, which means that human rights defenders and others can be detained up to one and half year without any inquiry or concrete charge being formally spelled out.



SIGRID RAUSING TRUST



MAIRIE DE PARIS



.....  
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.....



### **Establishing the facts**

Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed rigorous and impartial procedures to establish facts and responsibility.

Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1,500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

### **Supporting civil society**

Training and exchanges

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

### **Mobilising the international community**

Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

### **Informing and reporting**

Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

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**Created in 1985, the World Organisation Against Torture (OMCT) is the main international coalition of non-governmental organisations (NGOs) fighting against torture, summary executions, enforced disappearances, arbitrary detentions and all other cruel, inhuman and degrading treatment or punishment.** The strength of OMCT lies in its SOS-Torture Network composed of 311 NGOs from around the world.

### **Assisting and supporting victims**

OMCT supports victims of torture to obtain justice and reparation, including rehabilitation. This support takes the form of legal, medical and social emergency assistance, submitting complaints to regional and international human rights mechanisms and urgent interventions.

OMCT pays particular attention to certain categories of victims, such as women and children.

### **Preventing torture and fighting against impunity**

Together with its local partners, OMCT advocates for the effective implementation, on the ground, of international standards against torture.

OMCT is also working for the optimal use of international human rights mechanisms, in particular the United Nations Committee Against Torture, so that it can become more effective.

### **Protecting human rights defenders**

Often those who defend human rights and fight against torture are threatened. That is why OMCT places their protection at the heart of its mission, through alerts, activities of prevention, advocacy and awareness-raising as well as direct support.

### **Accompanying and strengthening organisations in the field**

OMCT provides its members with the tools and services that enable them to carry out their work and strengthen their capacity and effectiveness in the fight against torture.

OMCT presence in Tunisia and Libya is part of its commitment to supporting civil society in the process of transition to the rule of law and respect for the absolute prohibition of torture.

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### Activities of the Observatory

The Observatory is an action programme based on the belief that strengthened co-operation and solidarity among human rights defenders and their organisations will contribute to break the isolation they are faced with. It is also based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression of which defenders are victims.

With this aim, the Observatory seeks to establish:

- a mechanism of systematic alert of the international community on cases of harassment and repression of defenders of human rights and fundamental freedoms, particularly when they require urgent intervention;
- the observation of judicial proceedings, and whenever necessary, direct legal assistance;
- international missions of investigation and solidarity;
- a personalised assistance as concrete as possible, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- the preparation, publication and world-wide dissemination of reports on violations of the rights and freedoms of individuals or organisations working for human rights around the world;
- sustained action with the United Nations and more particularly the Special Rapporteur on Human Rights Defenders, and when necessary with geographic and thematic Special Rapporteurs and Working Groups;
- sustained lobbying with various regional and international intergovernmental institutions, especially the Organisation of American States (OAS), the African Union (AU), the European Union (EU), the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, the International Organisation of the Francophonie (OIF), the Commonwealth, the League of Arab States, the Association of Southeast Asian Nations (ASEAN) and the International Labour Organisation (ILO).

The Observatory's activities are based on consultation and co-operation with national, regional, and international non-governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria to examine the admissibility of cases that are communicated to it, based on the "operational definition" of human rights defenders adopted by FIDH and OMCT: "Each person victim or at risk of being the victim of reprisals, harassment or violations, due to his or her commitment, exercised individually or in association with others, in conformity with international instruments of protection of human rights, to the promotion and realisation of the rights recognised by the Universal Declaration of Human Rights and guaranteed by the different international instruments".

**To ensure its activities of alert and mobilisation, the Observatory has established a system of communication devoted to defenders in danger. This system, called Emergency Line, can be reached through:**

E-mail: [Appeals@fidh-omct.org](mailto:Appeals@fidh-omct.org)

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